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No. 41] NEW DELHI, SATURDAY, OCTOBER 8, 1955

NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 1st October, 1955 :—

Issue No.	No. and date	Issued by	Subject
292	S.R.O. 2106, dated the 12th September 1955.	Ministry of Health	Prevention of Food Adulteration Rules, 1955.
293	S.R.O. 2107, dated the 17th September, 1955.	Election Commission, India.	Election Petition No. 19 of 1954.
294	S.R.O. 2108, dated the 20th September, 1955.	Ditto	Election Petition No. 21 of 1954.
295	S.R.O. 2109, dated the 26th September, 1955.	Ditto	Corrections made in the Delimitation Commission's Final Order No. 24.
296	S.R.O. 2110, dated the 25th September, 1955.	Government of Ajmer (Revenue Department).	All estates situate in the State of Ajmer and held by certain intermediaries shall vest in the State Government.
297	S.R.O. 2111, dated the 18th September, 1955.	Election Commission, India.	Election Petition No. 17 of 1953.
298	S.R.O. 2174, dated the 28th September, 1955.	Ministry of External Affairs.	The Essential Commodities (Application to the State of Pondicherry) Order, 1955.
299	S.R.O. 2175, dated the 30th September, 1955.	Ministry of Finance (Revenue Division)	Exemption of paraffin wax, when imported, from whole of customs duty.
300	S.R.O. 2176, dated the 29th September, 1955.	Government of Ajmer (Finance Department)	Appointment of Collector of Sales Tax and his Assistants in the State of Ajmer.
	S.R.O. 2177, dated the 29th September, 1955.	Ditto	Specification goods as taxable under the Ajmer Sales Tax Act, 1955.
	S.R.O. 2178, dated the 29th September 1955.	Ditto	Appointment of date from which dealer whose gross turnover exceeds six thousand rupees shall be liable to pay tax specified therein.

Issue No.	No. and date	Issued by	Subject
301	S.R.O. 2179, dated the 30th September, 1955.	Ministry of Law:	Fixation of the hours during which the poll shall be taken in the Basirhat Parliamentary Constituency in the State of West Bengal.
302	S.R.O. 2180, dated the 1st October, 1955.	Ministry of Commerce and Industry.	Fixation of the price of tea for the purpose of the Indian Tariff Act, 1934.
303	S.R.O. 2181, dated the 30th September, 1955.	Lok Sabha Secretariat.	The Lok Sabha Secretariat (Recruitment and conditions of service) Rules, 1955.
304	S.R.O. 2182, dated the 1st October, 1955.	Ministry of Finance (Revenue Division).	Exemption of articles of iron and steel when imported, from the whole of customs duty specified therein.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

PART II—Section 3

Statutory Rules and Orders Issued by the Ministries of the Government of India (other than the Ministry of Defence) and Central Authorities (other than the Chief Commissioners).

MINISTRY OF LAW

New Delhi, the 28th September 1955

S.R.O. 2188.—The following notification issued by the Government of the Federation of Malaya is published for general information.

“L. N. 310.

THE MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) ORDINANCE, 1949

(No. 55 of 1949)

WHEREAS the Officer Administering the Government is satisfied that reciprocal provisions have been made by the Legislature, of the Republic of India (excluding Jammu and Kashmir) for the enforcement with in that territory of maintenance orders made by Courts in the Federation,

Now therefore IN EXERCISE of the powers conferred on him by sub-section (1) of section 11 of the Maintenance Orders (Facilities for Enforcement) Ordinance, 1949, the Officer Administering the Government hereby makes the following order—

1. This order may be cited as the Maintenance Orders (Facilities for Enforcement) (Republic of India) Orders, 1955.

2. The Maintenance Orders (Facilities for Enforcement) Ordinance, 1949, is hereby extended to the Republic of India (excluding Jammu and Kashmir).

Made this 15th day of June, 1955.

[No. C.S. 5152/54.]

By Command,

M. J. HOGAN,

Acting Chief Secretary.”

[No. F.28(7)/54-L.]

R. S. GAE, Dy. Secy.

MINISTRY OF FINANCE

(Department of Economic Affairs)

New Delhi, the 28th September 1955

S.R.O. 2189.—In exercise of the powers conferred by section 53 of the Banking Companies Act, 1949 (X of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of section 11 of the said Act shall not apply to the Dharmapuri Taluk Kadagathur Sree Ananda Bank Ltd., Dharmapuri, for the period up to and including the 31st March 1956.

[No. F.4(13)-FI/55.]

New Delhi, the 1st October 1955

S.R.O. 2190.—In exercise of the powers conferred by section 53 of the Banking Companies Act, 1949 (X of 1949), and on the recommendation of the Reserve Bank of India, the Central Government hereby declares that the provisions of section 10(1)(b)(i) (in so far as they relate to the employment of any person who is or at any time has been adjudicated insolvent or has suspended payment or has compounded with his creditors) of the said Act shall not apply to the National Bank of Sialkot Ltd., till the 15th September, 1958.

[No. F.4(139)-FI/55.]

K. P. BISWAS, Under Secy.

(Department of Company Law Administration)

New Delhi, the 28th September 1955

S.R.O. 2191.—In pursuance of clause (aa) of sub-section (1) of section 10 of the Industrial Finance Corporation Act, 1948 (XV of 1948) as amended by the Industrial and State Financial Corporations (Amendment) Act, 1955 (No. 28 of 1955), the Central Government hereby nominates Shri K. R. P. Aiyangar to be a Director of the Industrial Finance Corporation *vice* Shri S. G. Barve, I.C.S., until further orders.

[No. F.2(69)-F.III/55(CL.II).]

New Delhi, the 30th September 1955

S.R.O. 2192.—In exercise of the powers conferred by clause (c) of sub-section (1) of Section 4 of the Rehabilitation Finance Administration Act, 1948 (XII of 1948), the Central Government hereby nominates Shri Thakur Das Bhargava, Member Parliament, Lok Sabha, as a member of the Rehabilitation Finance Administration in the vacancy caused by the resignation of Sardar Santokh Singh and makes the following amendment in the notification of the Government of India in the Ministry of Finance, No. F.7(40)-FIII/54, dated the 20th September, 1954, namely:—

In the said notification, for the entry "8 Sardar Santokh Singh 'Holly Oak' Sanjauli, Simla", the entry "8 Shri Thakur Das Bhargava, Member Parliament, Lok Sabha", shall be substituted.

[No. F.7(57)-FIII/55(C.L.II).]

S.R.O. 2193.—In exercise of the powers conferred by sub-section (2) of section 5 of the Rehabilitation Finance Administration Act, 1948 (XII of 1948), the Central Government hereby nominates Shri Gurmukh Singh Musafir, Member Parliament Lok Sabha, as a Member of the Advisory Board of the Rehabilitation Finance Administration, in the vacancy caused by the resignation of Shri Thakur Das Bhargava and makes the following amendment in the notification of the Government of India in the Ministry of Finance, No. F.7(45)-FIII/54, dated the 31st December, 1954, namely:—

In the said notification, for the entry "1. Shri Thakur Das Bhargava, M.P. Lok Sabha", the entry "1. Shri Gurmukh Singh Musafir, M.P. Lok Sabha", shall be substituted.

[No. F.7(57)-FIII/55(C.L.II).]

New Delhi, the 6th October 1955

S.R.O. 2193A.—In pursuance of clause (a) of sub-section (1) of section 10 of the Industrial Finance Corporation Act, 1948, as amended by the Industrial and State Financial Corporations Act, 1955 (No. 28 of 1955), the Central Government hereby appoints Shri K. R. K. Menon as the Chairman of the Industrial Finance Corporation with effect from 18th September, 1955.

[No. F.2(60)F.III/55/(C.L.II).]

S. S. SHARMA, Under Secy.

ORDER

New Delhi, the 29th September 1955

S.R.O. 2194.—The President is pleased to direct that the following shall be substituted for the existing note 3 under Section V(3) Quarantine Leave—of the rules introduced by the Resolution of the Government of India in the late Finance Department No. F. 7(50)-RI/33, dated the 7th December, 1933, as renumbered by the order of the Government of India, in the Ministry of Finance No. F.7(93)-EIV/50, dated the 9th January, 1951, and that the notes 4 to 8 *ibid* shall be treated as cancelled.

"NOTE 3.—The Ministries of the Government of India may sanction a substitute for an absentee on quarantine leave whose duties cannot be arranged for, without prejudice to his pay provided that the absence does not exceed 30 days and the pay of the absentee is not more than Rs. 100 a month. Such power may also be exercised by all heads of departments and the Superintendent Posts and Telegraphs, Forms and Seals, Aligarh in respect of Government servants under their control who are not appointed directly by the Government of India."

[No. F.7(40)-E.IV/55.]

K. S. GANAPATI, Dy. Secy.

MINISTRY OF FINANCE (REVENUE DIVISION)

DANGEROUS DRUGS

New Delhi, the 29th September 1955

S.R.O. 2195.—The following draft of a further amendment in the Dangerous Drugs (Import, Export and Transhipment) Rules, 1933, which the Central Government proposes to make in exercise of the powers conferred by sub-section (2) of section 7 of the Dangerous Drugs Act, 1930 (II of 1930), is published, as required by sub-section (1) of section 36 of the said Act, for the information of all persons likely to be affected thereby; and notice is hereby given that the said draft will be taken into consideration on or after the 8th November, 1955.

Any objections or suggestions which may be received from any person with respect to the said draft before the date so specified will be considered by the Central Government.

Draft Amendment

In the table annexed to sub-rule (1) of rule 4 of the said Rules, against the item "(3) Manufactured Drugs", in entry (1) under the column headed "Conditions" for the words "State Government within whose jurisdiction the importer resides or has his place of business or by an officer empowered in this behalf by such State Government", the words "Narcotics Commissioner to the Government of India" shall be substituted.

[No. 6.]

M. P. ALEXANDER, Under Secy.

CUSTOMS

New Delhi, the 8th October 1955

S.R.O. 2196.—In exercise of the powers conferred by section 19 of the Sea Customs Act, 1878 (VIII of 1878), as in force in India and as applied to the

State of Pondicherry, the Central Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Revenue Division), No. 173-Customs, dated the 29th December, 1954, namely:—

In the proviso to the said notification, for the expression “not exceeding 1 lb. in weight”, the expression “not exceeding 5 lbs. in weight” shall be substituted.

[No. 160.]

S.R.O. 2197.—In exercise of the powers conferred by section 23 of the Sea Customs Act, 1878 (VIII of 1878), as in force in India and as applied to the State of Pondicherry, the Central Government hereby rescinds the notification of the Government of India in the Ministry of Finance (Revenue Division) No. 52-Customs, dated the 26th March, 1955.

[No. 161.]

S.R.O. 2198.—In exercise of the powers conferred by section 19 of the Sea Customs Act, 1878 (VIII of 1878), as in force in India and as applied to the State of Pondicherry, the Central Government hereby rescinds the notification of the Government of India in the Ministry of Finance (Revenue Division), No. 47-Customs, dated the 11th March, 1955.

[No. 165.]

JASJIT SINGH, Dy. Secy.

ORDER

STAMPS

New Delhi, the 30th September 1955

S.R.O. 2199.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (II of 1899), the Central Government hereby remits the whole of the stamp duty chargeable under the said Act on the lease deed in respect of a plot of land measuring 5,998 acres in Chanakyapuri (Diplomatic Enclave) to be executed in favour of the Afghan Embassy in India.

[No. 18.]

M. G. MATHUR, Under Secy.

CENTRAL BOARD OF REVENUE

INCOME-TAX

New Delhi, the 23rd September 1955

S.R.O. 2200.—In exercise of the powers conferred by sub-section (1) of section 59 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Board of Revenue hereby directs that the following further amendments shall be made in the Indian Income-tax Rules, 1922, the same having been previously published as required by sub-section (4) of the said section, namely:—

In rule 21 of the said Rules—

(1) the figures “49” shall be omitted;

(2) at the end of the rule, the following sub-paragraph shall be inserted, namely:—

“The statement of facts, the grounds of appeal or the statement of grounds of appeal, as the case may be accompanying every memorandum of appeal shall be filed in duplicate”.

(3) In Form A under the rule

(a) for the words “re-open an” in the heading of the form, the words “make a fresh” shall be substituted;

- (b) after paragraph 4 the following paragraph shall be added, namely:—
 “5. The address for service of notices on the petitioner is.....”;
 (c) in the “form of verification” for the stars and word “**signed”, the following shall be substituted, namely:—

“Place.....
 **Signature.....
 Date.....
 Status of the Petitioner.....”

(4) In Form B—

- (a) In paragraph 4 after the words, figures, stroke and brackets, “under section 22, sub-section (1) / (2)”, the stroke, brackets, figure and letter “/(2A)” shall be inserted;

- (b) after paragraph 5, the following paragraph shall be added namely:—
 “6. The address for service of notices on the petitioner is.....”;
 (c) in the “form of verification” for the stars and the word “**Signed” the following shall be substituted, namely:—

“Place.....
 **Signature.....
 Date.....
 Status of the Petitioner.....”

(5) In Form B-1—

- (a) For the word, figures, brackets, letters and commas “section 18(3A), (3B) or (3C)” in the heading of the form, the word, figures, brackets and letter “Section 18(3B)” shall be substituted;

- (b) In paragraph 1 of the form for the word, figures, brackets, letters and commas, “sub-sections (3A), (3B) or (3C)” the word, figure, brackets and letter “sub-section (3B)” shall be substituted;

- (c) After paragraph 3 the following paragraph shall be added, namely:—
 “4. The address for service of notices on the petitioner is.....”;
 (d) In the “form of verification” for the stars and the words “**signed”, the following shall be substituted, namely:—

“Place.....
 **Signature.....
 Date.....
 Status of the Petitioner.....”

(6) In Form C—

- (a) after paragraph 3 the following paragraph shall be added, namely:—
 “4. The address for service of notices on the petitioner is.....”;
 (b) In the “form of verification” for the stars and the words “**signed” the following shall be substituted, namely:—

“Place.....
 **Signature.....
 Date.....
 Status of the Petitioner.....”

(7) In Form C(1)—

- (a) in paragraph 2 of the Form after the words “herewith attached” the words “and of which intimation was received by your petitioner on.....” shall be inserted;

- (b) in the same paragraph for the words “and to levy an assessment” the words “and to levy assessments” shall be substituted;

- (c) after paragraph 2 the following paragraph shall be added, namely:—
 “3. The address for service of notices on the petitioner is.....”;

- (d) in the "Form of verification" for the stars and the word "***signed" the following shall be substituted, namely:—

"Place.....
 **Signature.....
 Date.....
 Status of the Petitioner....."

(8) In Form D—

- (a) after paragraph 3 the following paragraph shall be added, namely:—
 "4. The address for service of notices on the petitioner is.....";
 (b) in "Form of verification" for the stars and the word "***signed" the following shall be substituted, namely:—

"Place.....
 **Signature.....
 Date.....
 Status of the Petitioner....."

(9) In Form D-I—

- (a) after paragraph 3 the following paragraph shall be added, namely:—
 "4. The address for service of notices on the petitioner is.....";
 (b) in "Form of verification" for the stars and the word "***Signed" the following shall be substituted, namely:—

"Place.....
 **Signature.....
 Date.....
 Status of the Petitioner....."

(10) In Form D-II—

- (a) after paragraph 4 the following paragraph shall be added, namely:—
 "5. The address for service of notices on the petitioner is.....";
 (b) In the "Form of verification" for the stars and the word "***Signed" the following shall be substituted, namely:—

"Place.....
 **Signature.....
 Date.....
 Status of the Petitioner....."

(11) In Form F—

- (a) in paragraph 1—

- (i) after the words "Inspecting Assistant Commissioner of" the words "Income-tax" shall be inserted;
 (ii) for the brackets and words "(of which a copy is attached)" the brackets, words and dots "(of which a copy is attached and of which intimation was received by your petitioner on.....)" shall be substituted;

- (b) after paragraph 2 the following paragraph shall be added, namely:—
 "3. The address for service of notices on the petitioner is.....";

- (c) in the "Form of verification"—

- (i) the words "and in the statements of grounds of appeal" after the words "stated therein" shall be omitted;
 (ii) for the stars and the word "***signed" the following shall be substituted, namely:—

"Place.....
 **Signature.....
 Date.....
 Status of the Petitioner....."

(12) In Form G—

- (a) after paragraph 3, the following paragraph shall be added, namely:—
 “4. The address for service of notices on the petitioner is.....”;
- (b) in the “Form of verification” for the stars and the word “**Signed” the following shall be substituted, namely:—
 “Place.....
 **Signature.....
 Date.....
 Status of the Petitioner.....”

(13) In Form H—

- (a) after paragraph 3 the following paragraph shall be added, namely:—
 “4. The address for service of notices on the petitioner is.....”;
- (b) in the “Form of verification” for the stars and the word “**signed” the following shall be substituted, namely:—
 “Place.....
 **Signature.....
 Date.....
 Status of the Petitioner.....”

(14) In Form I—

- (a) after paragraph 4 the following paragraph shall be added, namely:—
 “5. The address for service of notices on the petitioner is.....”;
- (b) in the “Form of verification” for the stars and the word “**Signed” the following shall be substituted, namely:—
 “Place.....
 **Signature.....
 Date.....
 Status of the Petitioner.....”

(15) In Form J—

- (a) the figures “49” wherever they occur, shall be omitted;
- (b) after the last paragraph, the following paragraph shall be added, namely:—
 “The address for service of notices on the petitioner is.....”;
- (c) in the “Form of verification” for the stars and the word “**signed” the following shall be substituted, namely:—
 “Place.....
 **Signature.....
 Date.....
 Status of the Petitioner.....”

[No. 80.]

INCOME-TAX

New Delhi, the 4th October 1955

S.R.O. 2201.—In exercise of the powers conferred by sub-section (6) of section 5 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Board of Revenue hereby directs that the following further amendment shall be made in its notification S.R.O. 1214 (No. 44-Income tax), dated the 1st July 1952, namely:—

In the Schedule to the said notification Serial No. 27 and the entries against it shall be omitted.

[No. 84.]

[55/57/55-IT.]

S.R.O. 2202.—In pursuance of sub-section (4) of Section 5 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Board of Revenue directs that with effect from the 10th October 1955 the following further amendment shall be made in its Notification No. 32-Income-tax, dated the 9th November, 1946, namely:—

In the Schedule appended to the said Notification under the sub-head "VII-A-Punjab, Himachal Pradesh, Bilaspur, Patiala and East Punjab States Union and Jammu and Kashmir State":

- (i) for entry "6. Ludhiana" against Ambala Range, the entry "6. 'B' ward, Ludhiana." shall be substituted; and
- (ii) after entry "5. Salary Circle, Patiala" against Patiala Range the entry "6. A and C Wards, Ludhiana" shall be added.

2. Where an Income-tax Circle or Ward stands transferred by this Notification from one Range to another, appeals arising out of assessments made in that Income-tax Circle or Ward, and pending immediately before the date of this Notification before the Appellate Assistant Commissioner of the Range from which that Circle or Ward is transferred shall on an from the date of this Notification be transferred to and dealt with by the Appellate Assistant Commissioner of the Range, to which the said Circle or Ward is transferred.

[No. 85.]

[No. 50/25/54-IT.]

K. B. DEB, Under Secy.

INCOME-TAX

New Delhi, the 30th September 1955

Rules of procedure in respect of References to the Board of References under sub-section (4) of Section 23-A of the Indian Income-tax Act, 1922.

S.R.O. 2203.—The following draft of certain rules concerning applications for reference to the Board of Referees under sub-section (4) of section 23A of the Indian Income-tax Act (XI of 1922), and the procedure to be followed by such Board in disposing of the applications which the Central Board of Revenue proposes to make in exercise of the powers conferred by section 59 of the said Act is hereby published for the information of persons likely to be affected thereby; and notice is hereby given that the draft will be taken into consideration on or after the 5th day of November, 1955.

Any objection or suggestion which may be received from any person with respect to the draft before the date so specified shall be considered by the Central Board of Revenue.

DRAFT RULES

1. These Rules may be called the "Indian Income-tax (Board of Referees) Rules, 1955".

2. *Definitions.*—In these Rules unless the context otherwise requires,—

- (a) "Act" means the Indian Income-tax Act, 1922 (XI of 1922).
- (b) 'applicant' means the company which applies to the Commissioner of Income-tax under sub-section (4) of section 23A of the Act requiring him to refer its case to the Board of Referees;
- (c) 'application' means the application made by the company to the Commissioner of Income-tax under sub-section (4) of section 23A of the Act requiring him to refer its case to the Board of Referees;
- (d) 'Board of Referees' means the Board of Referees appointed by the Central Government in pursuance of sub-section (4) of section 23A of the Act;
- (e) 'Chairman of the Board' means that member of the Board of Referees, who is designated by the Central Government as the Chairman of the Board.

3. The application shall be made in Form 'A' annexed to these Rules and shall be sent (together with 3 extra copies thereof and of all enclosures thereto) to the Commissioner.

4. If the application is not made within the time specified in sub-section (4) of section 23A of the Act, the Commissioner of Income-tax (hereafter in these Rules referred to as the Commissioner) shall not refer the matter to which the application relates to the Board of Referees.

5. If the application is made within the aforesaid time, the Commissioner shall—

- (i) within thirty days of the receipt of the application by him, report to the Central Government the fact of such application having been made, and
- (ii) within sixty days of the receipt of the application by him, draw up a statement of the case in respect of the matter to which the application relates and send it (together with two extra copies thereof) to the Board of Referees for decision.

6. (1) The statement of the case drawn up by the Commissioner shall set out the relevant facts, his decision under sub-section (3) of section 23A of the Act, and his own opinion on any point or points urged by the applicant in the application including his opinion on the point whether the applicant is a company engaged in activities of the type or types specified in sub-section (4) of section 23A.

(2) A copy of his decision under sub-section (3) of section 23A and any other document or documents which the Commissioner considers relevant shall be appended to the Statement of the Case.

(3) One copy of the Statement of the Case shall be sent by the Commissioner to the applicant as soon as practicable.

7. The Board of Referees shall notify to the applicant and the Commissioner at least thirty days before the date of hearing—the date, time and place fixed for the hearing of the application.

8. Any application to the Board of Referees for adjournment of the hearing shall be made so as to reach the Board at least fifteen days before the date of hearing, but the Board of Referees may refuse to grant such an adjournment if they are satisfied that there are no sufficient grounds for adjournment and in such a case after communicating such refusal to the applicant, the Board may decide the reference *ex-parte* on its merits.

9. (1) Any person or persons who are eligible to represent the applicant in any income-tax proceedings by virtue of section 61 of the Act may, if specifically authorised for the purpose by the applicant, represent the applicant before the Board of Referees.

(2) Any officer of the Central Government or any lawyer may, if specifically authorised for the purpose by the Commissioner, represent the Commissioner before the Board of Referees.

10. If the Board of Referees requires any information or documents which are not contained in the statement of the case for deciding a reference, it may obtain such information or documents from the applicant or from the Commissioner as the case may be.

11. The Board of Referees shall communicate its decision to the applicant and the Commissioner as soon as it is ready.

12. If the members of the Board of Referees disagree in their decision, the decision of the Chairman of the Board shall prevail and be deemed to be the decision of the Board of Referees.

13. If by reason of any vacancy occurring in the Board of Referees on account of transfer, leave, or otherwise, the Central Government appoints any other person to fill up the vacancy, the proceedings of the Board of Referees as previously constituted shall not be invalid but the applicant shall be entitled to a re-hearing of his case by the Board of Referees as reconstituted, if it so demands.

14. All communications intended for the Central Government or the Board of Referees shall be addressed to the Deputy Secretary to the Government of India, Ministry of Finance (Revenue Division), North Block, New Delhi-2.

ANNEXURE

FORM 'A'

Form of Application to the Board of Referees under Section 23A(4)

This.....day of.....19.. In the matter of the application of section 23A to.....

(Name of the applicant company).

The applicant states as follows:—

(1) that the address to which notices or any other communication may be sent to the applicant is.....

.....

(2) that under sub-section (3) of section 23A of the Indian Income-tax Act, 1922, the applicant has been required by the Commissioner of Income-tax to distribute before.....(date) an amount of Rs.....as dividends to its shareholders in respect of the previous year ended.....

(3) that notice of the order of the Commissioner under sub-section (3) of section 23A was served on the applicant on.....(date).

(4) that the applicant is an Indian company engaged

in the manufacture of.....

in the processing of.....

in the mining of.....

in the generation or distribution of electricity/other than electricity (any other form of power should be specified here).

(5) that the facts which are admitted and/or found by the Commissioner and which are necessary for drawing up the reference are stated in the enclosure to this application.

(6) that in arriving at his decision under sub-section (3) of section 23A the Commissioner has erred in ignoring or failing to give adequate consideration to the following relevant points:—

1.

2.

3.

(7) that having regard to the current requirements of the applicant's business (fully described in the enclosure to the application), or/and other requirements necessary are advisable for the maintenance and development of the applicant's business,

(i) the distribution to the shareholders in respect of the previous year of any dividend/any dividend exceeding..... would be unreasonable.

(ii) the time allowed by the Commissioner for distribution under sub-section (3) of section 23A is unreasonably short and should be extended till.....

(8) that the applicant, therefore, requires under sub-section (4) of section 23A of the aforesaid Act that a statement of the case be drawn up and referred to the Board of Referees.

(9) that the documents or copies thereof as specified below on which the applicant relies in support of his case be forwarded to the Board of Referees

for their consideration. One set of the said documents is enclosed for the purpose, with translation in English of the documents, where necessary.

- (i)
 (ii)
 (iii)

Signed.....

Place.....

(Designation)

.....
 (Name of the applicant company)

I,.....the.....(designation) do declare that what is stated in the above application is true to the best of information and belief.

Signed.....

NOTE.—(1) The application shall be deemed to be accompanied by a fee of Rs. 100 if the said sum is paid to the Commissioner at the time of presenting the application either in cash or by a crossed cheque or crossed draft payable to the Commissioner (by designation) or if the application is accompanied by a receipt showing that the said sum has been remitted by money order or paid into the Treasury or a branch of the State Bank of India or a branch of the Reserve Bank of India. The amount paid in this respect shall be credited to the account of the Central Government under the head "IV—Taxes on income other than corporation tax—Miscellaneous—Fee for reference to Board of Referees".

(2) The application shall be signed by the principal officer of the company for the time being.

[No. 79.]

N. H. NAQVI, Secy.

MINISTRY OF COMMERCE AND INDUSTRY

New Delhi, the 4th October 1955

S.R.O. 2804.—In exercise of the powers conferred by sub-clause (i) of clause 5 of the Cotton Textiles (Export Control) Order, 1949, the Central Government hereby makes the following further amendment in the notification of the Government of India in the late Ministry of Commerce No. 67-C.W.(25A)/48, dated the 26th March 1949, namely:—

In the said notification, in sub-paragraph (2) of paragraph 2, after the words "Cotton waste blankets", the words "Tea towelling cloth" shall be inserted.

[No. 46(34)-CT(A)/52-28.]

V. NATESAN, Under Secy.

(Indian Standards Institution)

Delhi, the 30th September 1955

S.R.O. 2205.—In pursuance of regulation 4 of the Indian Standards Institution Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that an

amendment to the Indian Standard given in the Schedule hereto annexed has been issued under the powers conferred by sub-regulation (1) of regulation 3 of the said regulations.

THE SCHEDULE

No. and title of Indian Standard amended	No. and date of Gazette Notification in which the establishment of the Indian Standard was notified	No. & date of Amendment	Brief particulars of amendment	Date of effect of the Amendment
1	2	3	4	5
IS : 502-1953 Specification for Solid Bobbins for Dry Jute Spinning Frames.	S.R.O. 658, dated the 26th March 1955.	No. 1 June 1955	The amendment prescribes requirements for 3 types and 2 grades of solid bobbins for dry jute frames, in place of 63 types and 2 grades prescribed in the Indian Standard originally established.	15th October 1955.

Copies of the Amendment are available, free of cost, from the Secretary (Administration), Indian Standards Institution, 19 University Road, Delhi-8.

[No. MDC/II (4).]

S.R.O. 2006.—In exercise of the powers conferred by sub-regulation (1) of regulation of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies the issue of errata slips, detailed in column (4) of the Schedule hereto annexed, in respect of the Indian Standards specified in column (2) of the said Schedule.

THE SCHEDULE

Sl. No.	No. and title of Indian Standard	No. and date of Gazette Notification in which establishment of the Indian Standard was notified	Particulars of Errata Slips issued
1	2	3	4
1	IS : 10-1953 Specification for Plywood Tea-chests (<i>Revised</i>)	S.R.O. 658 dated the 26th March 1955	At page 5, Table I, Chest Size 17" X 17" X 19" against Sl. No. 4, 'Linings' read '20" for 21".'
2	IS : 700-1955 Specification for Solid Flange Bobbins for Jute Roving Frames.	S.R.O. 856 dated the 18th April 1955	At page 6, Table VI, Col. 1 'Species of Timber', item 1, read 'Birch' for 'Beech'.

Copies of the errata slips are available, free of cost, from the Secretary (Administration), Indian Standards Institution, 19 University Road, Delhi-8.

D. V. KARMARKAR,
Deputy Director (Marks),
Indian Standard Institution.

[No MDC/II (4).]

S. T. RAMASWAMY, Under Secy.

ORDERS

New Delhi, the 4th October 1955

S.R.O. 2207—IDRA/6/1/Am(5).—In exercise of the powers conferred by section 6 of the Industries (Development and Regulation) Act, 1951 (LXV of 1951), the Central Government hereby appoints Shri Dewan Singh Mehta, Deputy Director, Tele-Communications, Railway Board, New Delhi, to be a member of the Development Council established for the scheduled industries engaged in the manufacture and production of telephones, telegraph apparatus and wireless communication apparatus, electric lamps, electric fans, batteries dry cells and storage, radio receivers and house service meters and panel instruments, and directs that the following amendment shall be made in the Order of the Government of India in the Ministry of Commerce and Industry No. S.R.O. 353/IDRA/6/I, dated the 1st February 1955, namely:—

In paragraph 1 of the said Order, under the category of members “being persons who in the opinion of the Central Government are capable of representing the interests of consumers of goods manufactured and produced by the group of the said scheduled industries”, after entry No. 13 relating to Shri S. T. Thadani, the following entry shall be inserted, namely:—

“14. Shri Dewan Singh Mehta, Deputy Director, Tele. Communications, Railway Board, Ministry of Railways, New Delhi.”

[No. 5(14) IA(G)/55.]

S.R.O. 2208—IDRA/6.—In exercise of the powers conferred by section 6 of the Industries (Development and Regulation) Act, 1951, (LXI of 1951), the Central Government hereby appoints Shri T. S. Venkataraman, ex-Director, Sugarcane Breeding Institute, Coimbatore, to be a member of the Development Council established for the Scheduled industry engaged in the manufacture and production of sugar, and directs that the following amendment shall be made in the Order of the Government of India in the Ministry of Commerce and Industry No. S.R.O. 892, dated the 12th March, 1954, namely:—

In paragraph 1 of the said Order, under the category of members “being persons who in the opinion of the Central Government have special knowledge of matters relating to the technical and other aspects of the said Scheduled industry”, after entry No. 17 relating to Sardar Lal Singh, M.P., the following entry shall be inserted, namely:—

“17A. Shri T. S. Venkataraman, ex-Director, Sugarcane Breeding Institute, Coimbatore.”

[No. 5(10) IA(G)/55.]

R. N. KAPUR, Under Secy.

MINISTRY OF FOOD AND AGRICULTURE*New Delhi, the 29th September 1955*

S.R.O. 2209.—The following draft of a further amendment to the Indian Central Oilseeds Committee Provident Fund Rules, 1949, which it is proposed to make in exercise of the powers conferred by section 17 of the Indian Oilseeds Committee Act, 1946 (IX of 1946), is published as required by sub-section (1) of the said section, for the information of persons likely to be affected thereby; and notice is hereby given that the said draft will be taken into consideration on or after the 10th November, 1955.

Any objections or suggestions which may be received from any person with respect to the said draft before the date so specified will be considered by the Central Government.

Draft Amendment

For sub-rule (3) of rule 20 of the said Rules, the following sub-rule shall be substituted, namely:—

“(3) Any loss to the Fund from any cause whatever shall be borne by and be a charge on the Fund and shall be deducted in the first place

from the income derived from subscriber's subscriptions before such income is distributed."

[No. F.5-112/54-Com.I.]

F. C. GERA, Under Secy.

New Delhi, the 29th September 1955

S.R.O. 2210.—In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby directs that the notifications specified in the Schedule hereto annexed shall be rescinded with effect from the date on which this notification is published in the *Gazette of India*.

SCHEDULE

Serial No.		Notification No.	Date
I	Government of Saurashtra Industry and Supply Department (Food).	F/V/L&P/1	19-8-52
2	Do.	F/V/L&P/2	Do.
3	Do.	F/V/L&P/3	Do.
4	Do.	F/V/L&P/4	Do.
5	Do.	F/V/L&P/5	Do.
6	Do.	F/V/L&P/6	Do.
7	Do.	F/V/L&P/7	Do.
8	Department of Industry and Food . . .	Ind/II/L&P/8	20-6-53
9	Do.	Ind/II/L&P/9	18-8-53
10	Government of India Ministry of Food and Agriculture.	SRO 1183	9-7-52
II	Do.	CG-604(51)/52-II	14-1-53

[No. PYII-653(14)/55.]

S. N. BHALLA, Dy. Secy.

(Agriculture)

New Delhi, the 29th September 1955

S.R.O. 2211.—In pursuance of clauses (i) and (k) of rule 4 of the General Grading and Marking Rules, 1937, the Central Government hereby makes the following amendment to the notification of the Government of India in the Ministry of Food and Agriculture No. S.R.O. 263, dated 28th January, 1953, namely:—

In the Table in the said notification, under the column headed "Variety and grades of tobacco"—

- (i) under Group II—Flue cured Virginia strips, Leaf or bits, after the letters "LMG" the letters "MG" shall be inserted and for the letters, word and figure "BB and BB2" the word "Bits" shall be substituted,
- (ii) under Group III—Flue cured Virginia strips, Leaf, bits or stems, for the letters and figure "BB3", the letters "DBL" shall be substituted.

[No. F.16-34/53-Dte.II.]

SWAMI DAYAL OBEROI, Under Secy.

MINISTRY OF COMMUNICATIONS

(Posts and Telegraphs)

New Delhi, the 26th September 1955

S.R.O. 2212.—In exercise of the powers conferred by section 8 of the Indian Post Office Act, 1898 (VI of 1898), the Central Government hereby makes, with

effect from the 1st October, 1955, the following further amendment in the Indian Post Offices Rules, 1933, namely:—

For rule 49 of the said Rules, the following shall be substituted, namely:—

“49. A parcel redirected to any place served by the Inland post shall, save where the original address and the substituted address are within the delivery area of the same post office, or are within the same post town, or where the parcel has been returned by the surface route as unclaimed or refused for delivery to the sender within the delivery area of the post office of issue or the same post town, be chargeable in respect of each redirection with further postage as follows:—

- (i) If the parcel is redirected by the surface route, a sum equal to half the amount of postage chargeable for the transmission of that parcel by the surface route;
- (ii) If the parcel is redirected, or returned to the sender, by air, a sum as under clause (i) and in addition, the difference between the amount of postage chargeable for transmission by air, and the amount of postage chargeable for transmission by the surface route, of that parcel. (R.1-6/55).

V. M. BHIDE, Dy. Secy.

New Delhi, the 29th September 1955

S.R.O. 2213.—In exercise of the powers conferred by Section 30 of the Air Corporations Act, 1953 (27 of 1953), the Central Government is pleased to appoint Shri Kasturi Srinivasan, Madras, as a member of the Air Transport Council in addition to the members whose names have been specified in this Ministry's Notifications No. 18-CAG(5)/53, dated the 15th April, 1955, and No. 18-CAG(5)/53, dated the 14th July, 1955.

[No. 15-CA(7)/55.]

K. V. VENKATACHALAM, Dy. Secy.

MINISTRY OF TRANSPORT (Transport Wing)

PORTS

New Delhi, the 30th September 1955

S.R.O. 2214.—In exercise of the powers conferred by clause (jj) of sub-section (1) of section 6 of the Indian Ports Act, 1908 (XV of 1908), the Central Government hereby makes the following further amendment to the rules published with the notification of the former Government of Cochin, Public Works Department No. 5 dated the 27th August, 1941, the same having been previously published, as required by sub-section (2) of the said section, namely:—

In the said notification for clause (a) of the Exception to Rule 1, the following shall be substituted, namely:

- “(a) Any period during which the Head of the Customs Department at the Port certifies that the goods were detained by him for examination under section 32 or for tests under sections 194 and 195 of the Sea Customs Act, 1879 (VIII of 1879), other than for the ordinary process of appraisement and that the detention was not attributable to any fault or negligence on the part of importers.”

[No. 6-PH(53)/54.]

S.R.O. 2215.—The following draft of certain further amendments to the rules for the use of space in the Port's godown at Fort Cochin, published with the Notification of the Government of India in the Ministry of Transport No. 6-PH(33)/51, dated the 11th January 1954, which the Central Government proposes to make in exercise of the powers conferred by clause (jj) of sub-section (1) of section 6 of the Indian Ports Act, 1908 (XV of 1908), is published for the information of all persons likely to be affected thereby, and notice is hereby given that the said draft will be taken into consideration on or after the 15th November 1955 as required by sub-section (2) of the said section.

Any objections or suggestions which may be received from any person with respect to the said draft before the date so specified will be considered by the Central Government.

Draft amendments

In the said rules—

1. In the preamble, for the words "space in the Port's godown at Fort Cochin belonging to the Port of Cochin", the words "covered or open space in the wharf premises at Fort Cochin belonging to the Port of Cochin" shall be substituted;

2. After rule 8, the following rule shall be added, namely:—

9. Whenever covered or open storage space at the Fort Cochin Wharf is let out on permit by the Port for the storage of import or export cargo paying landing or shipping fees, the following rates of rent shall be levied:—

(1) Covered Storage

Under permits issued by the Conservator of the Port of Cochin or any other Officer authorised by him in this behalf, for periods not exceeding one year.

Rs. 12-8-0 per 100 sq. ft. or less per calendar month or part thereof.

(2) Open space

Under permits issued by the Conservator of the Port of Cochin or any other Officer authorised by him in this behalf, for periods not exceeding one year.

Rs. 15 per 1000 sq. ft. or less per calendar month or part thereof.

NOTES.—(a) If, in order to suit the convenience of the Port, a permit is granted for a fraction of a calendar month or if the permit is revoked in the course of a calendar month, rent for the actual period of occupation shall be charged on a *pro-rata* basis.

(b) Storage of goods other than import or export goods paying landing or shipping fees will not be permitted within the Fort Cochin wharf premises except with the prior written permission of the Traffic Manager which will be granted in exceptional cases at his sole discretion and on payment of an additional rent at a rate equal to the wharfage fixed for the class of goods concerned in the Port's Scale of Rates.

[No. 6-PII(80)/55.]

A. V. SUBRAMANIA IYER, Under Secy.

PORTS

New Delhi, the 3rd October 1955

S.R.O. 2216.—In exercise of the powers conferred by section 7 and sub-section (2) of section 9 of the Bombay Port Trust Act, 1879 (Bombay Act VI of 1879) and in partial modification of the Ministry of Transport Notification No. 8-PI(296)/54 dated the 29th March 1955, the Central Government hereby appoints Shri P. R. Subramanian, Senior Deputy Director General of Shipping to be a member of the Bombay Port Trust Board (representative of the Mercantile Marine Department, Bombay) in place of the Director General of Shipping, Bombay.

[No. 8-PI(219)/55.]

K. NARAYANAN, Under Secy.

MINISTRY OF HEALTH

New Delhi, the 30th September 1955

S.R.O. 2217.—In pursuance of the provisions of clause (vi) of sub-section (2) of section 5 of the Drugs Act, 1940 (XXIII of 1940), the Central Government hereby nominates Dr. Sheo Vehari Lal, M. Pharm., Ph.D., Government Analyst for the State of Bihar, to be a member of the Drugs Technical Advisory Board.

[No. F.4-11/55-D.]

P. N. ANAND, Under Secy.

New Delhi, the 3rd October 1955

S.R.O. 2218.—In exercise of the powers conferred by clause (e) of section 3 of the Dentists Act, 1948 (XVI of 1948), the Government of Uttar Pradesh have re-nominated, with effect from the 29th September 1955, Lieutenant-Colonel A. N. Chopra, Director of Medical and Health Services, Uttar Pradesh, as a member of the Dental Council of India to represent the State of Uttar Pradesh.

[No. F.6-35/55-MI.]

BABU RAM, Under Secy.

MINISTRY OF REHABILITATION

New Delhi, the 27th September 1955

S.R.O. 2219.—In exercise of the powers conferred by sub-section (2) of section 29 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby directs that the provisions of the said section shall apply—

- (a) to the class of persons specified in Schedule I other than those who have obtained by fraud or misrepresentation multiple allotments of who, in the case of residential premises, already own a residential property of their own;
- (b) in respect of the class of properties described in Schedule II.

SCHEDULE

1. Every person, against whom no arrears of rent in respect of the property in his lawful possession are outstanding at the date of the transfer of the property.

2. Every person, against whom any arrears of rent in respect of the property in his lawful possession are outstanding at the date of the transfer of the property, but who has paid up such arrears within sixty days of such date.

3. Every displaced person having a verified claim against whom any arrears of rent in respect of the property in his lawful possession are outstanding at the date of the transfer of the property, but such arrears of rent do not exceed the amount of compensation payable to him.

4. Every displaced person having a verified claim against whom arrears of rent in respect of the property in his lawful possession exceeding the amount of compensation payable to him are outstanding at the date of the transfer of the property, but who after adjustment of the compensation against such arrears pays up the balance of the arrears within sixty days of the date of such adjustment.

SCHEDULE II

Residential premises, shops and industrial premises.

[No. F.51(14)-S.I/55.]

KULWANT SINGH, Under Secy.

New Delhi, the 1st October 1955

S.R.O. 2220.—In exercise of the power conferred by sub-section (1) of section 6 of the Administration of Evacuee Property Act 1950 (XXXI of 1950), the Central Government hereby appoint for the State of Ajmer, Shri Triloki Nath Sharma as Assistant Custodian of Evacuee Property, for the purpose of discharging the duties imposed on the Custodian by or under the said Act, within the said State with effect from the 3rd September, 1955.

[No. XVI-10(16)/55-Prop.]

J. J. KARAM, Under Secy.

New Delhi, the 4th October 1955

S.R.O. 2221.—In exercise of the powers conferred by sub-section (1) of section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints Shri Raja Lal Gupta as Assistant

Settlement Commissioner for the purpose of performing the functions assigned to such officer by or under the said Act with effect from the date he took charge of his office.

[No. 5/36/55-SII.]

New Delhi, the 8th October 1955

No. 2222.—In exercise of the powers conferred by clause (a) of sub-section (2) of section 16 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints the persons specified in column 2 of the schedule hereto annexed to the post of managing officers with effect from the 24th August, 1955, for the custody, management and disposal of the evacuee properties in Punjab within their respective jurisdiction, acquired under section 12 of the said act by virtue of notification of the Government of India in the Ministry of Rehabilitation Nos. S.III-19(44)/54-I, S.III-19(44)/54-II dated the 24th March, 1955, S.III-19(44)/54-I, dated the 12th July, 1955 and S.III-19(44)/54, dated the 6th September, 1955.

THE SCHEDULE

Sl. No.	Name of the person appointed	Present post holding
1.	Shri Shanti Sarup	Qunungo Ferozepore District.
2.	Shri Chaman Lal	Do.
3.	Shri Jinda Ram	Do.
4.	Shri Onkar Nath	Do.
5.	Shri Indar Sen	Do.
6.	Shri Balwant Singh	Consolidation of Holdings Department Punjab, Jullundur.
7.	Shri Sundar Singh	Consolidation of Holdings Department Punjab, Jullundur.
8.	Shri Ajmer Singh	Consolidation of Holdings Department Punjab.
	Shri Ved Parkash Rahber	Qunungo.
10.	Shri Dharan Pal	B. A.
11.	Capt. Iqbal Singh	B. A.
12.	Shri Harbhajan Singh	B. A., LL. B.
13.	Shri Surjit Singh	B. A., LL. B.

[No. S.III-7(10)/55.]

M. L. PURI, Under Secy.

MINISTRY OF LABOUR

New Delhi, the 29th September 1955

S.R.O. 2223.—In exercise of the powers conferred by sub-section (1) of section 5 of the Mines Act, 1952 (XXXV of 1952), the Central Government hereby appoints Shri N. M. Khan Warsi, Deputy Coal Mines Welfare Commissioner, to be an Inspector of Mines subordinate to the Chief Inspector.

[No. M-6(21)55.]

New Delhi, the 30th September 1955

S.R.O. 2224.—In exercise of the powers conferred by sections 6 and 9 of the Minimum Wages Act, 1948 (XI of 1948), the Central Government hereby nominates Shri S. K. Mukerjee, I.A.S., Deputy Secretary to the Government of India, Ministry of Defence, New Delhi, to be a member of the Advisory Committee appointed in the notification of the Government of India in the Ministry of

Labour, No. S.R.O. 2087, dated the 21st June, 1954, *vice* Shri R. N. Vasudeva, and makes the following further amendment in the said notification, namely:—

In the said notification, under the heading “(2) Representatives of employers”, for the entry, “2. Shri R. N. Vasudeva, I.A.S., Deputy Secretary to the Government of India, Ministry of Defence, New Delhi”, the entry “2. Shri S. K. Mukerjee, I.A.S., Deputy Secretary to the Government of India, Ministry of Defence, New Delhi” shall be substituted.

[No. LWI-6(11)/55.]

P. D. COMMAR, Under Secy.

New Delhi, the 4th October 1955

S.R.O. 2225.—In exercise of the powers conferred by sub-section (1) of section 13 of the Employees' Provident Funds Act, 1952 (XIX of 1952), and in supersession of the notification of the Government of India in the Ministry of Labour, No. PF-516(26), dated the 9th September 1952, the Central Government hereby appoints Shri R. M. Gandhi, Accounts Officer (Provident Funds), Saurashtra, to be an Inspector for the whole of the State of Saurashtra for the purposes of the said Act, and of any Scheme made thereunder, in relation to factories engaged in a controlled industry or in an industry connected with a mine or an oilfield.

[No. PF-31(143)/55.]

New Delhi, the 5th October 1955

S.R.O. 2226.—In exercise of the powers conferred by section 7 of the Coal Mines Provident Fund and Bonus Schemes Act, 1948, (XLVI of 1948), the Central Government hereby makes the following further amendment in the Coal Mines Provident Fund Scheme published with the notification of the Government of India in the Ministry of Labour, No. PF.15(5)/48, dated the 11th December 1948, namely:—

In the said Scheme—

In sub-paragraph (1) of paragraph 50-A, for the words “in the first week of the month following the month of deposit” the words “by the third day of the week following the week of deposit” shall be substituted.

[No. PF.5(10)/53.]

S.R.O. 2227.—In pursuance of paragraph 3 of the Coal Mines Provident Fund Scheme published with the notification of the Government of India in the Ministry of Labour, No. P.F. 15(5)/48, dated the 11th December 1948, and in supersession of the notification of the Government of India in the Ministry of Labour No. PF15(13), dated the 12th April 1950, as amended from time to time, the Central Government hereby constitutes a Board of Trustees consisting of the following persons, namely:—

- | | |
|---|---|
| (1) Shri Vishnu Sahay, I.C.S., Secretary to the Government of India, Ministry of Labour, New Delhi—
<i>Chairman.</i> | } Nominated by the Central Government. |
| (2) Shri N. V. Venkataraman, Deputy Secretary to the Government of India, Ministry of Finance, New Delhi. | |
| (3) Shri P. C. Bhattacharya, Deputy Coal Commissioner (Production), 1, Council House Street, Calcutta. | |
| (4) Shri B. Sarkar, I.C.S., Commissioner, Burdwan Division, P.O. Chinsurah, West Bengal. | |
| (5) Shri B. P. Singh, I.A.S., Commissioner of Labour, Bihar, Patna. | |
| (6) Shri L. S. Titus, Assistant Labour Commissioner, Madhya Pradesh, Nagpur. | |
| (7) Shri P. Chandra, Coal Mines Provident Fund Commissioner, Dhanbad. | |
| (8) Shri W. D. Forrest, Chief Accountant, M/s Bird and Co. Ltd., P.O. Sijua, District Manbhum. | } Nominated by the Indian Mining Association. |
| (9) Shri R. C. Fido, C/o M/s Andrew Yule and Co. Ltd., P.O. Dishergarh, District Burdwan. | |

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|--|--|
| (10) Shri B. N. Mondal, Colliery Proprietor, 22, Canning Street, Calcutta. | } Nominated by the Indian Mining Federation. |
| (11) Shri Arju Agarwalla, Colliery Proprietor, "Anand Bhawan" P. O., Jharia, District Manbhum | |
| (12) Shri Reghunath Sahai Gulati, Colliery Manager, Rewa Coalfields Limited, Umaria Colliery, P.O. Umaria, Vindhya Pradesh. | } Nominated by the Central Government to represent other employers. |
| (13) Shri Kanti Mehta, Secretary, Indian National Mine Workers' Federation, Opposite State Bank of India, Dhanbad. | |
| (14) Shri B. P. Jha, General Secretary Colliery Mazdoor Congress, Bengal Hotel, Asansol (Burdwan). | } Nominated by the Central Government in consultation with organisations of employees recognised by the Central Government, to represent employees in coal mines. |
| (15) Shri R. L. Malviya, M.P., President, Chhattisgarh Colliery Workers' Federation, P.O. Chirainiri. | |
| (16) Shri Kamal Krishna Mukherjee, General Secretary, Nisra Thana Coalfield and Workshop Workers' Union, Nirsachatti, P.O. Nirsachatti, Manbhum. | |
| (17) Shri D. B. Mishra, C/o Dara Colliery Labour Union, P.O. Dara Colliery Distt. Dhenkanal, Orissa. | |
| (18) Shri M. K. Bose, Agent, Jamuria Group of Collieries, P.O. Charanpur, Distt. Burdwan, (West Bengal). | } Employee nominated by the Central Government in consultation with organisations of employees recognised by the Central Government, to represent employees in coal mines. |
| | } Nominated by the Central Government to represent employees outside the organisations. |

[No. PF. 4(14)/54].

P. N. SHARMA, Under Secy.

New Delhi, the 28th September 1955

S.R.O. 2228.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the dispute between the employers in relation to the Dalmia Jain and Company Limited and the Rohtas Quarries Mazdoor Sangh.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD**REFERENCE No. 22 OF 1954****PRESENT****Shri P. S. Bindra, B.A., LL.B., Chairman.****PARTIES:**

The management in relation to the Dalmia Jain & Co. Ltd.
and
The Rohtas Quarries Mazdoor Sangh.

APPEARANCES:*For the management:*

Shri H. D. Bishnoi.
Shri V. B. Shukla.
Shri R. S. Singh.

For the Sangh:

Prof. Jagdish Chandra Dikshit President, Indian National Trade Union Congress, U.P. Branch.
Shri Hargovind Misra, President, Rohtas Quarries Mazdoor Sangh.
Shri Chandra Shekhar Choubey, General Secretary, Rohtas Quarries Mazdoor Sangh.

AWARD

By Government of India, Ministry of Labour, Order No. S.R.O. 3556, dated 11th December 1954 and by subsequent Order No. S.R.O. 599, dated 11th March 1955, the dispute between the management in relation to Dalmia Jain & Co. Ltd. and the Rohtas Quarries Mazdoor Sangh, in respect of the matters set forth in the schedule attached thereto, has been referred for adjudication to this Tribunal.

2. I take up issue No. 2 first of all, as it is the most contested issue.

Issue No. 2.—(a) Yearly Bonus be paid to the staff and labourers of the Quarries on the profits of the Cement Factory.

This demand has not been pressed by Shri Dikshit appearing on behalf of the union as quarries are owned by Dalmia Jain & Co. Ltd. while cement factory is owned by Rohtas Industries Limited. Both companies have been separately registered and are separate concerns. The mere fact that they belong to Dalmia Jain group of industries cannot justify the grant of bonus to the workers of one company on the trading profits of the other company.

3. (b) Yearly Bonus be paid to the workers on daily wage basis and labourers of the Quarries for the years 1949 to 1952 on the same basis as has been paid to the staff.

The demand for bonus can be justified when the following two conditions are fulfilled.

- (1) When wages fall short of the living standard, and
- (2) the industry makes huge profits, part of which are due to the contribution which the workmen make in increasing production.

The principles for the grant of bonus were discussed and a formula was formulated by the Full Bench of the Labour Appellate Tribunal of India in *Millowners Association, Bombay, Versus Rashtriya Mill Mazdoor Sangh, Bombay, (1950-II-L.L.J. 1247)* where it was observed as follows:—

“As both labour and capital contribute to the earnings of the industrial concern, it is fair that labour should derive some benefit, if there is surplus after meeting prior or necessary charges.”

The following were prescribed as the first charges on gross profits *viz:*—

- (1) Provision for depreciation,
- (2) Reserves for rehabilitation,
- (3) Return on 6 per cent. on the paid-up capital, and
- (4) a return on the working capital at a lesser rate than the return on the paid up capital. The surplus that remained after meeting the aforesaid deductions, would be available for distribution as bonus.”

4. In the present case the bonus is not claimed on the trading profits of the company for the period 1949–52 but on the basis of an agreement marked Exhibit 26, dated 3rd April 1951 which was brought about by Shri R. S. Pandey, Conciliation Officer and Labour Commissioner, Bihar. According to this agreement, the members of the clerical staff and other monthly rated workers like peons, khalasis, etc. were paid bonus for four years. They were paid at the rate of 15 days wages for first year and 45 days wages for 2nd year in June 1951, and 5½ months wages for two years together in August 1953. At the same rate, new bonus is claimed for the quarry labourers on the basis of the agreement Exhibit 26. So what is claimed is not ‘bonus’ in the strict legal sense, but an additional wage which arises out of a contract which took place on 3rd April 1951 (agreement Exhibit 26). The question for determination is whether the quarry labourers are also covered by the term ‘workers’ used in this agreement. Para 1 runs as follows:—

“The workers and staff of the Dalmia Jain Quarries and Rohtas Quarries, Limited, working in the quarries, will be classified in respect of grade, pay and allowances on the same basis as the workers and staff of the Rohtas Industries Limited, Dalmianagar. The fixation of grades and payment of salaries, allowances, etc. according to the revised grades, will be completed within a fortnight, as from the year beginning on the 1st November 1948. The difference of dearness allowance of Rs. 10 allowed to the workers and staff of the Rohtas Industries, Limited, from 1st November 1948 as per award was paid to the quarry employees from the 1st November 1949. This difference will be paid within a fortnight.”

The workers mentioned in para 1 were to be classified in respect of grade, pay and allowances. There is no grade or pay, or allowance for quarry workers, who are piece-rated.

5. The work in the Kauriari quarry is carried on by the contractors, who employ labour and pay it while the company pays at the flat rate of Rs. 2-2-0 per ton of limestone to the contractors which includes the bonus to be paid to the labour at the rate of Re. 0-15-6, per day per labourer. The payment of bonus to the labourers under the agreement (Exhibit 90) is made by the company directly and the amount is debited to the account of the contractor. The rest of the wages are paid by the contractor to the labourers directly. The company only sees that the minimum wage of Rs. 1-12-0 a day is paid to each labourer. There is no privity of contract between the company and the labour employed by the contractor. The labour is engaged by the contractor who is their employer and the workers engaged there cannot be deemed to be employees of the company. So they are not entitled to any bonus from the company. They are also not entitled to any bonus because according to the terms of the agreement they are being paid bonus at the rate of Re. 0-15-6 per day. If by the term 'bonus' bonus in the legal sense is meant, then the demand for bonus must be based upon the trading profits of the year of the company. There is nothing on record to show as to whether the company made any profits at all upto the year 1952. Even the balance sheets for these years have not been got filed by the union.

6. So far as the labourers of the Murli quarry are concerned, who are employed directly by the company on jogar system, (which is a sort of piece rate system), are not entitled to any bonus on the basis of the agreement Exhibit 26. They work in groups and one group consists of two drillers, one hammerman, one baildar, one trolleyman, one loader, three carriers, half mate and half malva labour, which is paid Rs. 19-11-0 and they are required to give an output of 10 tons of limestone. Similarly the patra (rejected stone) is quarried by a set of 20 labourers who are paid according to their output. These men have got no grades, no pay and are not paid any allowance. So para 1 of Exhibit 26 cannot refer to these workers. According to this agreement, salaries and allowances, were fixed and paid to the monthly rated staff and the question of implementation of the terms of Exhibit 26 never arose so far as the quarry labourers were concerned, because it did not apply to them. Similarly in para 3 there is a reference to special allowance at the rate of Rs. 8 (for staff) and Rs. 3 (for worker) per month is being paid to all the monthly rated staff as will be evident from the statement about the staff marked Exhibit 25. The union never demanded those allowances for the quarry labour. If bonus was payable to the quarry labourers also under this agreement, I fail to see why it was not demanded by the union when the monthly rated workers were paid in June 1951 and August 1953. There is an agreement marked Exhibit 27 dated 29th December 1950 which relates to the demands made in the strike notice dated 1st December 1950. The union has filed a copy of the strike notice (which is item 3 of Exhibit 31) in which the demand regarding bonus related to the monthly rated workers but so far as the workers of the quarry were concerned, it is stated in demand No. 4 that they should get their bonus and it should be increased from Re. 0-12-3 to Re. 0-15-6. This demand was acceded to by the agreement exhibit 27 in which it is stated in para. 4 that in order to give immediate redress to a certain extent the management has accepted the demand No. 4 of the Sangh to the following extent:—

“Attendance bonus (D/A) to quarry workers will be increased from 0-12-3 to 0-15-6 from November 1950”.

From this it will appear that the quarry workers were dealt with on a different footing. There is also on record Exhibit 40, dated 7-7-1952 by virtue of which the jogar system was introduced. This agreement while prescribing piece rates for working out limestone, does not make any provision for bonus. So there is no contract on the basis of which, the bonus can be granted to the quarry labourers. The quarry labourers could demand bonus on the trading profits of the company if there were profits from 1949 to 1952, and surplus was available according to the principle laid down in the Supreme Court authority reported as 1955-I-L.L.J. 1. There is nothing on the record to show that there was any available surplus in those years. The first balance sheet which we have on record is of the year 1952-53, which reveals that at the beginning of the year there was a loss of Rs. 1,91,117-12-0, which was brought forward from the last year. So no bonus can be granted to the quarry labourers and workers employed on daily wages from 1949 to 1952. The staff and the other monthly rated workers have already been paid bonus for this period according to the agreement Exhibit 26.

7. (c) That yearly Bonus be paid for six months basic wages to the staff and labourers in Murli and Kauriari quarries for the year 1952-53.

So far as the staff and other monthly rated workers are concerned, bonus is demanded on the basis of the agreement Exhibit 26 and the management does not dispute its liability to pay bonus according to the rate payable to the workers of Rohtas Industries Limited. There is however a dispute about the accounting of the year. According to the Union they have not been paid bonus for the year 1952-53 and that this bonus is payable to them on the profits of Rohtas Industries Limited for the year 1952-53. There has been an award respecting the bonus to be paid to the workmen of Rohtas Industries Limited for the year 1952-53 but still it is subject to appeal and has not become final. Financial year of Rohtas Industries Limited closes on 31st October and therefore so far as workmen of Rohtas Industries Limited are concerned, it relates to a period from 1st November 1952 to 31st October 1953. The management contends that as the financial year of Dalmia Jain & Co. Ltd. commences on 1st February and terminates on 31st January, so the bonus for the corresponding period so far as Dalmia Jain & Co. Ltd. is concerned will be from 1st February 1953 to January 1954. It is admitted before me that the Dalmia Jain & Co. Ltd. has already paid bonus for four years. They paid 15 days bonus for first year and 45 days bonus for 2nd year in June, 1951 and 5½ months bonus for two years together in August 1953.

8. The union contends that though they have been paid bonus for four years the bonus for the year 1952-53 has not yet been paid to them and that the bonus for 1952-53 would depend upon the bonus of Rohtas Industries Limited for the year 1952-53 which is *subjudice*. The management maintains that when 5½ months bonus was paid for two years in August 1953 it was for the years 1951-52 and 1952-53 (ending 31st January 1953) and depended upon the bonus of the Rohtas Industries Limited for the years 1950-51 and 1951-52 (ending 31st October 1952). The union urged that the company may be asked to produce records showing the payments which will clarify the matter. So the management was ordered to produce the pay sheets which was done the next day and from the perusal of pay sheets it becomes evident that the staff have been paid bonus upto the year 1952-53 (ending 31st January 1953). The pay-sheets respecting bonus for the year 1949-50 are marked Exhibit 117. They reveal that bonus was paid to 125 persons at the rate of 15 days per year. The names of the employees, their designations, their date of appointment, their salary, the period for which the bonus is payable, amounts payable, and the amounts paid are given in these pay-sheets. Stamped receipts are taken, in token of payment, and each worker has signed on these pay-sheets while getting the bonus. At serial No. 50 the name of Daroga Ram appears who joined on 11th April 1949 and he was given 10 days bonus instead of 15 days. Had this bonus been for the year 1948-49 as alleged by the union, then Daroga Ram could not have been entitled to any bonus because he joined on 11th April 1949 and the year 1948-49 of the company expired on 31st January 1949. Having taken employment after 31st January 1949, he could not be entitled to the bonus for the year 1948-49. So the bonus which was paid by virtue of Exhibit 117 was for the year 1949-50 and not for the year 1948-49 as alleged by the union. Similarly Exhibit 118 deals with the bonus for the year 1950-51. The workers were paid at the rate of 45 days bonus for the year. Exhibit 119 shows the payment of bonus for two years together viz. 1951-52 and 1952-53. The bonus paid for the two years is separately shown. Some persons like Jaidee Lal Das (serial No. 12) Srikrishan Prasad (serial No. 13), Sheo Puja Dubey (Serial No. 18), Ayodhya Ram (serial No. 22), Thakur Ram (serial No. 29) and others numbered as 34, 35, 51, 56, 64, 65, 73, 74, 81, 92, 107, 108, 109, 110 and many others were paid bonus for the year 1952-53 and were not paid bonus for the year 1951-52 as they were in service in 1952-53 and not in the year 1951-52. Each entry in this register is properly stamped and signed by the recipient of the bonus. Against this overwhelming documentary evidence, it cannot be held that the bonus paid together for two years in August 1953, was for the year 1950-51 and 1951-52 and not for the year 1951-52 and 1952-53. Under the circumstances, I am of opinion that the monthly rated staff and workers have been paid bonus upto 31st January 1953. When the bonus for the workers of Rohtas Industries Limited for the year 1952-53 is finally settled, on that basis, they will be paid bonus for the year 1953-54 ending 31st January 1954. There is no demand for payment of bonus for the year 1953-54 so far as the present reference is concerned because it particularly refers to years 1949 to 1952 and the year 1952-53. The year 1953-54 is not covered by it. The monthly rated staff has been paid bonus for the year 1952-53 but the labourers of the Murli quarry who are engaged on piece rate system by the company will be entitled to bonus if the demand is substantiated by the working profits of the company for the year 1952-53. The contention of the company, that since they are piece rated they are not the employees of the company has got no force. They are the employees of the company for purposes of bonus irrespective of the fact whether they are paid on monthly basis or daily basis or are piece rated. Wages may be paid in any way,

but if they have contributed to the profits of the company they are entitled to bonus, though they may not be permanent employees of the company.

9. The balance sheet for the year 1952-53 is marked Exhibit 95 which shows a gross profit of Rs. 1,41,532-9-4 in the year. This sum was adjusted against the loss of Rs. 1,91,117-12-9 brought forward from the last year. According to the Directors' report, this left a net debit of Rs. 49,585-3-5. It was further pointed out that the company did not pay any dividend on the Preference shares or on the Ordinary shares. The balance sheet of the year 1953-54 (Exhibit 96) further discloses that they had made payment of dividend on Preference shares upto the year ending 31st January 1947. This shows that dividend even of the Preference shares is yet to be paid with effect from 1st February 1948. No dividend was paid during the year in dispute. We are concerned with the trading profits of the year 1952-53, so the loss of Rs. 1,91,117-12-9 brought forward from the last year is to be ignored. On the basis of the working profits of the year, the company has prepared a statement for the year marked Exhibit 'X'. The union has filed its comments marked Exhibit 113 while the management has replied to them. (Exhibit 114). Statement marked Exhibit 'X' runs as follows:—

"Dalmia Jain & Co. Ltd., closing year ended 31st. January 1953."

Profits as per profit and less A/C	1,41,533	0	0
Add: expenses in respect of previous year settle and adjusted paid during the year		41,632	0	0	
Do.		24,342	0	0	65,974 0 0
Less: claim in previous year realised this year		6,076	0	0	2,07,527 0 0
Expenses of this year taken in next year i.e., 1953-54 closing—	3,327	0	0		
Do.	2,441	0	0	5,768	0 0 11,844 0 0
					1,95,663 0 0
Add					
Adjusted in 1953-54 being part amount of bonus for 52-53 closing	4,451	0	0		
Expenses written off this year realised next year i.e., 53-54 closing	7,556	0	0		12,207 0 0
					2,07,870 0 0
Less depreciation (as per chart attached)					1,54,810 0 0
					53,060 0 0
Less I/Tax (as per chart attached)					21,183 0 0
					31,877 0 0
				Net profit	

Interest at 6 per cent on capital Rs. 25,00,000/- Rs. 1,50,000/-"

10. Expenses in respect of the previous year settled, adjusted and paid during the current year, which were objected to by the union have been added to the profits of the current year. As regards the objection regarding the sum of Rs. 6,075-10-9 appearing at page 11 of the balance sheet (Exhibit 95), the management has explained that this sum has been deducted in the above calculations because it related to the previous year. This sum has been shown at Rs. 6,076-0-0 instead of Rs. 6,075-10-9.

11. The company showed a loss of the sale of shares in the Joint Stock Companies amounting to Rs. 20,500-0-0 at page 10 of the balance sheet (Ex. 95). This was objected to by the Union. The company explained that under clause 23(a) of the Memorandum and Articles of Association of Dalmia Jain & Co. Ltd. (Exhibit 94) the company is entitled to do the business of dealing in shares. This is a legitimate business of the company and it cannot be treated as sale of assets as put by Shri Dikshit in his comments. Shri Dikshit has cited the case of Indian Oxygen & Acetylene Co. Limited and their workmen reported as 1951-II-L.L.J. 269, where it is held that the profits made by the company from the sale of its capital assets should not be taken into consideration in arriving at the profits for the purpose of bonus. It is not applicable to the present case as there has been no sale of capital assets. Shri Dikshit has also relied upon the case of the Greaves Cotton & Co. Ltd.

and their workers reported as 1954-II-L.L.J. 180, the head note of which runs as follows:—

"For determining the question as to whether profit from certain transactions by the employer should be taken into consideration for the purpose of reckoning the available surplus for deciding the quantum of bonus, the real test is to see whether such profits could be regarded as trading profits of the company or not. A loss for which the workmen are not responsible may well reduce the available surplus. There is no reason, therefore, why trading gains of the company should be excluded on the ground that the workmen have not contributed directly to them. There is no difference between the income resulting from the utilization of the company's money (by investment in shares) and other income derived directly from the business operations of the company especially when the investments were made either to protect or extend or aid its main business.

Where a company invested its moneys out of its profits for a number of years, by taking shares in allied concerns, in order to protect or extend or aid its main business, it must be held that dividends received by the company from such investments should be included in calculating the available surplus for the purpose of bonus."

It is urged on behalf of the management that this ruling helps them and that it is their case that the loss incurred in stock exchange business be also included while determining the profits of the company for the year. If gains are to be added to the profits then losses are also to be accounted for. So the loss of Rs. 20,500 cannot be ignored.

12. The next objection is regarding the expenses in respect of previous year settled and adjusted and paid during the current year. This sum of Rs. 65,974-12-8 has already been added to the profits of the year.

13. A sum of Rs. 2,974-1-6 was given by the company as charity which have been rightly objected to by the Union. According to the case of the National Engineering Workers Union *Versus* Bombay Enamel Works Limited reported as 1952-L.A.C. 421, this sum has to be added to the profits of the company.

14. As regards the bad debts amounting to Rs. 7,444-9-3, I think the objection of the union is not tenable.

15. The company has paid interest to the tune of Rs. 1,14,157-1-11 which is objected to by the Union. The management has explained this item in their comments marked Exhibit 114. They have given the details of interest paid and the interest received. If they have been paying interest at the rate of 6 per cent, they have also been receiving interest at the same rate. A sum of Rs. 20,394-11-5 which related to the previous year has been added to the profits in statement marked 'X'. The company has got fixed assets more than the subscribed capital and therefore they had to take loans for running their business. The company has issued 20,000—6 per cent Cumulative Preference shares of Rs. 100 each amounting to Rs. 20,00,000 and 50,000 Ordinary shares of Rs. 10 each amounting to Rs. 5,00,000. There is a note in the balance sheet which runs as follows:—

"All issued for payment wholly in cash."

Shri Dikshit argued that it related to the Ordinary shares and not to Preference shares. The management has shown the previous balance sheets of the company in which the words "All issued for payment wholly in cash" have been written below both the items conveying that it relates to both kinds of shares. It is only a printing mistake. All the shares were issued for cash and hence 6 per cent has to be allowed on the sum of Rs. 25,00,000 which comes to Rs. 1,50,000. Payment of dividend is a prior charge. So before any surplus is left, an amount of Rs. 1,50,000 will have to be reserved from the profits of the year for payment of dividend on the shares.

16. The buildings owned by the company have been revealed in the reply of the company and the company has not charged any depreciation on these buildings. The depreciation has been charged on Lalkohia-Kauriar siding which is as follows:—

Dalmia Jain & Co. Ltd.
Depreciation chart for the year ended 31-1-1955.

	Value	Rate	Depreciation	Amount
Railway Siding .	567109	7% normal	39697	
		20% initial	110880	1,50,577 0 0
Tramline .	39877	10% normal	3988	
		20% initial	245	4233 0 0

1,54,810 0 0

17. So far as the normal depreciation of 7 per cent in the case of Railway siding and 10 per cent in case of Tramline is concerned there can be no dispute but 20 per cent has been charged in both cases as initial depreciation. It is true that in the balance sheet, it is shown at page 5 that Rs. 5,50,344-13-11 were invested during the year on the Lalkohia-Kauriari siding, but during the course of arguments it was however admitted before me that the construction was completed and the siding came into use during the last year though the cost has been debited to the company in the current year. The initial depreciation is allowed in the year of installation and not in the subsequent year. So I am of opinion that the following amounts of depreciation will have to be deducted from the depreciation shown in the statement 'X'.

		Rs.
Railway siding	20 per cent initial	1,10,880 0 0
Tramline	20 per cent initial	245 0 0
		<hr/> 1,11,125 0 0 <hr/>

So the amount of Rs. 1,11,125 is to be added to the profits of the company shown in the statement Exhibit 'X'. Thus the profits during the year come to Rs. 31,877-0-0 as shown in statement 'X'. Rs. 2,974 disallowed as charity and Rs. 1,11,125 disallowed as depreciation. All these sums put together are hardly sufficient to cover the sum of Rs. 1,50,000 which is to be paid as dividend. So this leaves no surplus which can be distributed as bonus.

18. Lastly it was pointed out that the management had admitted in its comments that a sum of Rs. 10,78,000 stands against Rohtas Industries Limited which is the price of the limestone supplied to them, which was not paid till the date of the closing of the year. It was urged on behalf of the union that this sum was not covered by the sum of Rs. 26,13,425-4-3 shown as the price of limestone on page 11 of the balance sheet. So the management was asked to produce the accounts of Rohtas Industries Limited and their sales account, which they have done and they are marked Exhibits 116, 116A, 115 and 115A. A perusal of these statements clearly shows that the amount of Rs. 10,78,000 which stands against Rohtas Industries Limited as the price of limestone has been accounted for and is included in the sum of Rs. 26,13,425-4-3 shown on page 11 of the balance sheet. Under the circumstances, no bonus can be granted for the year 1952-53.

19. Issues 3(a) and (b).—These issues have not been pressed by Shri Dikshit and there is no force in them.

20. Issues 4 and 7 are dealt with together which run as follows:—

Issue No. 4.—(a) The Quarry workers be given the following rates of Daily Wages:—

	Wages	D.A.	H.A.	Total
(i) Trolleyman	1 8 0	1 4 0	0 4 0	3 0 0
(ii) Hammerman	1 8 0	1 4 0	0 4 0	3 0 0
(iii) Beldars	1 4 0	1 4 0	0 4 0	2 12 0

carriers and Drillers

(iv) Mates—Monthly net salary from Rs. 55 to Rs. 80 plus a D.A. of Rs. 40 plus House Allowance of Rs. 10.

(b) Workers, such as Peon, Helper, Khalasi, Darwan, Sweeper, Trolleyman, Hammerman, Shotfirer, Waterman and Mail Servant Driller, Lightman and Chainman who are in casual rolls be paid a minimum of Rs. 3 per day.

Issue No. 7.—The grade for staff be fixed as follows:—

(b) 100-10-150-15-225. (Senior grade), Clerks, Tester, Q. Supervisor, Loading Supervisor, Quality Supervisor, Attendance Supervisor, Time Keeper, Motor Truck and Compressor Driver, Compounder Nurse, Amin, Watch and Ward Supervisor, School Master.

(b) 100-10-150-15-225. (Senior grade), Clerks, Tester, Q. Supervisor, Loading Supervisor, Quality Supervisor, Attendance Supervisor, Compounder, Assistant Accountant, Assistant S. K. Head Time Keeper, Cashier, Watch and Ward Inspector, Sanitary Inspector and Headmaster.

(c) 150-20-250-25-300. Assistant Foreman, Workshop Incharge, Quarry Assistant, Labour Inspector, Overseer, Draughtsman, Head Clerk, Accountant, Store Keeper Assistant Labour (Welfare) Officer, Quality Incharge, Blasting Incharge, P.A. to Manager, Chief Cashier, Ration Incharge, Senior Mechanic, Vaidya.

- (d) 175-25-300. Assistant Quarry Manager, Labour Welfare Officer, Medical Officer, Lady Doctor, Operator of Shovel or Bulldozer or Dragline, Head Vaidya.
- (e) 325-25-525. Quarry Manager, Assistant Manager, Chief Medical Officer, Labour Officer, Building Engineer and Surveyor.
- (f) 50-5-110. Loading Mate, Gangmate, Havaladar, Dressors, Power House Attendant, Assistant Fitter, Wireman, Assistant Turner, Assistant
- (g) 75-5-100-10-170. Turner, Fitter, Welder, Moulder, Carpenter, Mechanic, Head Lineman, Head Mistry.
- (h) 29-2-39-2½-54. Helper, Khalasi, Peon, Watch and Ward Shot firer, Trolleyman, Waterman, Sweeper, Hammerman, Maid-Servant, Driller, Lightman.

21. The company owns two quarries, one at Kauriari and the other at Murli. Kauriari quarry is run on contract system and the company pays to the contractor at the flat rate of Rs. 2-2-0 per ton of limestone produced and it is admitted that under normal conditions, one worker at the average produces one ton of limestone. The management has also stated that it is no more profitable to work the Kauriari quarry and that they are going to close down this quarry within six months. So far as Murli quarry is concerned it is worked under Jogar system as explained in my inspection note marked Exhibit 16. It is a piece rated system. One gang consisting of the following workmen is required to give an output of 10 tons of limestone and is paid Rs. 19-11-0 detailed as follows:—

- Two drillers Rs. 1-15-6 each.
- One Hammerman Rs. 2-3-6 each.
- One Baledar Rs. 1-15-6 each.
- Three carriers Rs. 1-13-6 each.
- One Trolleyman Rs. 2-0-6 each.
- One loader 1-15-6.
- ½ Mate Rs. 2-8-0.
- ½ Malva labour Rs. 1-15-6.

(One mate is employed after two gangs, and one Malva labour is employed in respect of two gangs).

So far as the rejected stone is concerned, a set of 20 labourers is employed to cut the patra stone (rejected stone). They remove the rejected stone to a distance of 100 ft. on head and the output required of them is 1000 c.ft. This labour force of 20 workers consists of 4 gangs of 5 workers each. A gang of five workers is paid Rs. 9-13-6.

22. From the above it will be evident that no workman is paid less than Rs. 1-15-6. It is true that three carriers are paid at the rate of Rs. 1-13-6 each but they are mostly females. So the least wage for a male worker is Rs. 1-15-6 which the company is paying. Along with this, it is also to be considered that the company is not paying any dividends. Shri R. S. Singh, Geologist of Messrs. Dalmia Jain & Co. Ltd. has stated that the quantity of limestone that can have commercial value is expected to last four years only so far as Murli quarry is concerned. This may be a very modest estimate and the quarry may be worked for 5 or 6 years but still it will mean that the company can have no long range arrangement. In spite of all these drawbacks the company is paying a fair wage though not a living wage. Shri Dikshit at first started with Dr. Akyroyd's theory and when he found that according to that theory the minimum wage would be Rs. 27-8-0 per mensem and at 180 living cost index it would come to Rs. 49-8-0 only, while the company is paying Rs. 1-15-6 per day, he gave up the point and did not argue about the wages at all except a passing reference to the first appointment of clerks who were matriculates. He said that in Grade I (Rs. 47-4-75), they should start at Rs. 50 instead of Rs. 47. Shri Dikshit did not touch the wage structure except what he said about matriculate clerks as stated above. So it is not necessary to go into the point at length. At any rate, the wages paid by the company fairly compare with the rates prevalent at Khehari, Jinkphani, Kalyanpur and Baulia. The union depended upon the rates in Baulia about which Shri I. B. Roy A.W. 2 was examined. He stated that they do not engage any labour directly but pay to the supplying agents at different rates at different quarries, varying from Rs. 1-12-0 to Rs. 2-5-0 per ton. He also stated that the average output is one ton per head per day. They also pay dearness allowance at the rate of Rs. 1-2-5 per head per working day for an output of one ton. These rates include the removal of the overburden. In case of Murli quarry, the company pays separately for the overburden and for producing the

limestone. So there can be no fair comparison. It can also be not lost sight of that Boullia quarry is paying dividend at the rate of 7½ per cent while the company in dispute is not able to pay any dividend and is in arrears since 1947, even so far as the Preference shares are concerned. The capacity of the employer to pay cannot be ignored, especially so when the company is paying more than the minimum wage and is paying a fair wage. So far as monthly rated workmen are concerned their rates are as follows:—

Grades, designations and Allowances for Staff only at Murli

Grade	Scale	Designation	Dearness allowance
	Rs.		Rs.
I	47—4—75	Clerk	41/4/-(31-50)
		Quarry Supervisor	
		Loading Supervisor	
		Testers	
		Compounders	
		Quality Supervisors	
		School Teachers	48/12/-(51-75)
		Store Clerk	
II	52—4—60—5—85	Magazine clerk	48/12/-(51-75)
		Cashier	
III	60—5—85—7—110	Labour Inspector	48/12/-(51-75)
		Quarry Assistants (Jr)	
		Accounts Clerk	
		Assistant Store Keeper	
		Cashier	51/4/-(75-100) 58/12/-(101-150) 69/8/-(151-199)
IV	94—7—115—10—165	Quarry Assistant	
		Store Keeper	
		Head Clerk	
		Overseer	
		Assistant Foreman	
		Cashier	

Allowances :

All get Rs. 8/- per month as field allowance and Rs. 10/- as fuel allowance and Rs. 6/- to single. Free water service (watercarrier or failing water carrier each @ Rs. 10/- p. m. per family and Rs. 5/- per bachelor).

Jr. Staff—Employed on monthly rated basis :

Short firers, khalasis, peons, waterman, Helpers, Store Peons, Dispensary coolies, Drawans, Loading Mate, Lightmen, Drillers, Watch and Ward Supervisor, Power House Attendant, Assistant Fitter,

Rs. 21—1—22—½—25

Rs. 36/- Dearness allowance

Rs. 3/- Field allowance

Rs. 3/- Fuel allowance

Minimum Total 63

These rates compare favourably with other companies mentioned above and there appears to be no reason to upset the wage structure.

23. It will not be out of place to mention that so far as Jogar system is concerned, an agreement was entered into on 7-7-1952 by virtue of Exhibit 40 and there appears to be no reason to upset this agreement when the cost of living index has gone down instead of going up. During my inspection it was also admitted by the parties that the rate of an unskilled workman was Re. 0-5-0 in the year 1939. At the present cost of living index which stands at about 600, it should be round about Rs. 1-9-0 but the company is paying Rs. 1-15-6. So far as the staff and other monthly rated employees are concerned a look at the statement Exhibit 25 will reveal that they are very well paid. This is a statement which gives the names of all the employees of the company, their qualifications, their date of appointment, and the emoluments paid to them. Most of the employees are non-matriculいたes and they are paid fairly reasonable emoluments. These rates also favourably compare with the rates prevalent in sister concerns. Under the circumstances, I do not think any change in the wage structure is warranted.

24. Issues Nos. 5, 8 and 20 which deal with leave, are hereby dealt with together.

The first demand is that the quarry labourers should get 25 days sick leave on full wages, privilege leave for 25 days on full wages and casual leave for 10 days in a year. In this connection it will suffice to say that the quarry labourers are not the permanent employees of the company. In Kauriari quarry the work is carried on contract system while in Murli quarry, piece-rate system is in force. So long as they are not brought on the permanent list of employees, no provision for leave can be made for them and they will have to content themselves with the leave provided by the Mines Act. When they are brought on the permanent list of employees as provided in issue 13, they will be entitled to such leave as is allowed to monthly rated workers, other than the clerical staff as given hereafter. So far as clerical staff is concerned they are at present given privilege leave for 30 days, casual leave 12 days, sick leave 12 days and festival holidays seven days in a year. They are paid their full pay and dearness allowance while on leave. I think the scale of leave is quite reasonable.

25. So far as other monthly rated workers like khalasis, and watchmen are concerned, they are getting privilege leave 14 days a year, casual leave 4 days a year, sick leave 10 days and festival leave 7 days a year. I think 4 days casual leave in a year is not sufficient and I increase it to 10 days a year, and similarly sick leave is increased from 10 to 12 days a year like the clerical staff. The provision regarding privilege leave and festival holidays is adequate.

26. Issue No. 9.—This issue deals with uniforms. Scale of uniforms supplied by the company is given in appendix 'A' attached to the written statement of the management. It fairly compares with the uniforms issued in other concerns. So there is no justification to increase the standard laid down by the company.

27. Issue No. 10.—Nothing has been urged in support of this issue. So it is found against the workmen.

28. Issue No. 11.—Charpoys, chairs, tables, buckets and lamps were supplied by the management to the workmen free which practice is being stopped. It is urged on behalf of the management that these facilities were given in the beginning when the area was not populated and it was done to attract the labour to a new place. I however see no justification for stopping the concession which has been hitherto given. So this practice should continue.

29. Issue No. 12.—When a staff in a lower grade officiates in the absence of another staff who is in a higher grade in his absence for five days or more such staff who officiates be paid officiating allowance calculated on the difference of salary for the number of days he so officiated.

It is urged by the management that no contingency arises in their case because they are already over-staffed. Anyhow if and when an occasion arises, and a workman of a lower grade officiates for a workman of a higher grade on account of absence of 15 days or more, then the workman should get officiating allowance which should be equal to half the difference of salary for the two posts.

30. Issue No. 13(a).—If a daily wages worker works in the company continuously for a period of three months he be made permanent on the same post with all the privileges of a monthly rated employee. And all such workers who fall in the above category be confirmed and payment of difference in salary etc. be made with retrospective effect on individual merit.

The workmen employed on Jogar system are covered by this issue. I think they should be gradually absorbed in the permanent cadre. Fifty per cent of the required strength be absorbed in the year 1956-57 and the remaining 25 per cent in the year 1957-58. It will not be possible to absorb the remaining 25 per cent because the quarry work fluctuates and the management must have a margin in this respect. This cannot be applied to contract labour but the system of contract labour is to be discouraged as workmen have to sweat more and get less. It is apparent from the statement Exhibit 70 got filed from the company. In Kauriari quarry where contract system is prevalent, the output per head is 1.4 ton while in the case of Murli quarry where Jogar system is in force the output per head is 0.7 ton. The average daily income of each labourer in Murli quarry is Rs. 1-15-6 while in the case of Kauriari quarry it is Rs. 1-14-0 per head. The management has already stated that they are closing their Kauriari quarry within six months. So they are giving up the contract system.

31. Issue No. 13(b).—Such temporary staff who works continuously for a period of three months be confirmed in that post and all privileges of a permanent staff be given to him.

The demand is that temporary employees who work continuously for a period of three months be confirmed. I think three months period is too short but such

members of the temporary staff who continuously works for a period of one year may be confirmed if the post is permanent. But if the post is temporary then the question of confirmation does not arise.

32. *Issue No. 14.*—So far as the permanent employees are concerned, there is already a provision for Provident Fund. The company contributes Re. 0-1-0 per rupee and similar contribution is made by the employees. Considering the present financial position of the company, I do not think it is advisable to raise the contribution of the company.

33. *Issue No. 1.*—That Standing Orders immediately be framed, and Works Committee be constituted immediately.

The demand is for a direction to frame Standing Orders and to constitute a Works Committee. Standing orders are to be framed under Industrial Employment (Standing Orders) Act 1946 and the company is hereby directed to frame the rules within a period of three months and put them up before the certifying officer. So far as the 'Works Committee' is concerned, from the perusal of Section 3 of the Industrial Disputes Act 1947, it would appear it is only the appropriate Government which may by general or special order require the employer to constitute a Works Committee in the prescribed manner. As the authority rests with the appropriate Government, no direction can be given in this respect.

34. *Issue No. 15.*—(a) Hosiari Singh, Shovel Operator of Kauriari be immediately reinstated and his back dues be paid.

(b) The service of Sri Rameshwar Dubey has been made new without justification. He be considered old employee of the management and all his back claims be given.

So far as the case of Shri Hosiari Singh is concerned, it has not been pressed before me and is given up.

35. So far as Shri Rameshwar Dubey is concerned, he is examined as A.W.4. He states that in June or July 1950 he joined Dalmia Jain & Co. Ltd. but when the Receiver was appointed, he began to serve under the Receiver, as an accountant and his pay was raised from Rs. 68 to Rs. 115 by the Receiver. His demand is that when the services of the Receiver were terminated on 19th May 1952, he should have been allowed to join at Rs. 115 per mensem, the pay granted by the Receiver. The management was not prepared to give him the salary granted to him by the Receiver and they in this connection wrote the letter Exhibit 104 dated 23rd June 1951 to the Receiver stating that they will not be bound by the increment granted by the Receiver. The Receiver gave the reply dated 26th June 1951 marked Exhibit 105, in which he said that the rise given by him will be enforced only during his regime. On the termination of the services of the Receiver, when the management reverted to the present company, Shri Dubey wanted to join the company on his new scale which the company was not prepared to grant. So he gave the application Exhibit 43 on 19th July 1952 asking for permission to join his duty. On this the manager wrote the note Exhibit 43-A by which his application was forwarded to the Accountant, Quarries Department, Dalmianagar, for discussing his case with the General Secretary. No final orders were passed on this application and the matter remained in suspense. At last, the matter was referred to Shri R. S. Pandey, who gave his award Exhibit 42 dated 9th July 1953. He directed that Shri Dubey be taken by the company immediately on the terms and conditions which the company offered to him previously. He further directed that he should be appointed at Rs. 68 and should be given the usual increments in his old scale of Rs. 47-4-75. This was done. So he is not entitled to the higher grade and he is only entitled to the grade which the company offered to him previously and Shri Pandey confirmed it. But the question remains as to why he should not be paid wages from 19th July 1952 to the date of his joining after the award. No reply was given to him respecting his application Exhibit 43; so he made another application on 8th August 1952 marked Exhibit 44 requesting that he may be allowed to join duty. He was not allowed to do so. It was for the management to intimate Shri Dubey that he could join on his old scale if he so liked. But this option was not given to him. Had Shri Dubey refused to join on the old scale he would not have been entitled to his wages for this broken period. But as the management did not allow him to join, I think he is entitled to his full emoluments with effect from 19th July 1952 to the date of his joining under the award of Shri Pandey.

36. *Issue No. 22.*—The demand is that quarry workers and staff be given gratuity at the rate of 20 days pay per year calculated on the basis of the gross salary at the end of the service. The staff has already got the advantage of the Provident Fund and the company's finances do not permit the additional burden of gratuity. But so far as quarry workers are concerned I think there is no justification for denying them the advantage of gratuity. When the members of the staff are given Provident

Fund, the quarry workers are also entitled to some relief and no discrimination can be made amongst them. As soon as they are brought under the permanent list of employees as indicated above they should be given the advantages of gratuity. When the management can afford to give the benefit of Provident Fund to the clerical staff they can also afford to give gratuity to the quarry workers. So gratuity should be paid at the rate of 15 days emoluments per year under the following conditions:—

On the death of an employee while in the service of the company or on his becoming physically or mentally incapable of further service half a month's salary or wages for each year of continuous service, to be paid to the disabled employee or, if he has died, to his heirs, or legal representatives or assignees.

On voluntary retirement or resignation of an employee after 10 years continuous service half month's salary or wages for each year of continuous service.

On termination of service by the company half a month's salary or wages for each year of completed service.

Employees who are dismissed on account of misconduct causing financial loss to the company will not be entitled to gratuity to the extent of loss caused. Salary or wages for the purpose of calculating of gratuity shall be the average salary or wages (basic wages plus dearness allowance excluding other allowances) during the twelve months immediately preceding the death, disability, retirement, resignation or termination of services as the case may be. The company will of course be at liberty to grant gratuity in excess of the above terms. The scheme shall come into force with effect from 1-2-1956.

37. *Issue Nos. 25 and 26.*—In matters of appointment, retrenched hands, if any, and relatives of the employees if qualified be given preference.

In case of vacancies in the higher grade those in the lower grade, if qualified be promoted. No new outsider should be taken for such posts.

This is a matter to be left to the management and I have no reason to suppose that the retrenched hands or the relatives of the employees are not given due consideration. It is not possible to shut out the outsiders absolutely and it rests with the management to promote a worker or to appoint a fresh hand.

38. *Issue No. 27.*—In case of Quarry workers lead of 0-4-0 per day be given for a distance over 10 yds. and 0-1-0 per day as lift over 5 ft. and 0-2-0 for every second lead of 25 yards and additional lift 0-1-0 per every 5 ft.

This issue was not pressed before me and in fact due consideration has been given to this fact while fixing the rates for jogar system.

39. *Issue No. 28.*—The company is doing away with the contract labour at Kauriari quarry as it is closing the quarry within six months. Anyhow it is not possible to force the company to grant bonus and other benefits to the workmen who are not employees of the company.

40. *Issue No. 30.—Payment of Bonus.*—(a) Some members of the staff including the following who have since been paid their salaries for the period from 17th May to 4th July 1952 and as such have become entitled to bonus, have not yet been paid bonus. This should be paid to them:—

(1) Shri Sheo Pujan Dubey, 2. Sri Krishna Pd., 3. Sri Ram Bachan Ram, 4. Sri Jaideo Lal Das, 5. Sri Jhalai, 6. Sri Bando Singh, 7. Sri Sheo Ratan Ram, 8. Sri Ram Dehin Ram, 9. Sri Kali Dhobi, 10. Sri Sobrai Ram, 11. Sri Chandra Lal, 12. Sri Indris Khan, 13. Sri Sahdeo Ram, 14. Sri Dipa Ram, 15. Sri Gopi Ram.

(b) The above noted persons have not yet been given their Annual increments since they have been paid their salaries for the period from 17th May to 5th July 1952. They are entitled to their increments which may be paid to them.

(c) The following employees who were working at Domerkhar and were re-appointed by D. J. & Co. Ltd. should be considered as old employees as per item No. 10 of agreement dated 4th July 1952. In support of their cases, it may be noted that they were not paid off finally. Their leave etc. which they had earned during their tenure of service at Domerkhar has remained help up. The same should be released and put to their credit.

1. Shri Raghunath Dubey.
2. Shri Charitar Singh.

3. Shri Lal Chand Talwar.
4. Shri Bhikhari Singh.
5. Shri Jagdish Singh.
6. Shri Krishan Prasad.
7. Shri Jaideo Lal Das.
8. Shri Sheopujan Dubey.

These employees were granted salary for the period from 17th May to 4th July 1952 under the award of Shri R. S. Pandey marked Exhibit 42. The period in question is the period which lapsed between the termination of the services of the Receiver and the taking over the management by the present company. The quarry was not worked in those days. It has not been proved as to how many days these employees worked during the period for which bonus is claimed. According to the management these workmen were not the employees of the present company when the Receiver took charge. Anyhow there is nothing on record to prove that the persons covered by this issue are entitled to bonus or annual increments and other benefits claimed by them.

41. Issues Nos. 6, 16, 17, 18, 19, 21, 23 and 24 deal with welfare measures.

So far as the supply of water is concerned the company has engaged water carriers to supply water at the quarters of the workmen. The company pays Rs. 10 per family or Rs. 6 per bachelor, where water is not supplied through the water-man. At the quarries the arrangement for water is made, but I found during my inspection at Murli quarry that water was stored in iron drums in the summer months which should be avoided. The company is bound to supply fresh cool drinking water for drinking at the quarries and in order to keep the water cool it is necessary to store it in earthen pithers in summer season. Water should be available within 100 yards of each working face.

42. So far as Rest Sheds and other pucca buildings are concerned, in view of the fact that working of the Kauriari quarry is to be closed down within six months and the working of the Murli quarry is not going to last long and it may continue for 4 or 5 years only it would be too much to ask the company to raise pucca structures. Anyhow there should be separate units for males and females so far as Rest Sheds are concerned. There should also be latrines for the females and the sick. No latrines need be erected for males who can make use of the jungle for this purpose.

43. The company is legally bound to provide creches specified under the Mines Act. At Murli quarry, I saw a creche which however did not appear to be much popular. The popularity depends upon the Ayah in charge.

44. There is one club at Murli with a library attached to it and one club at Kauriari which has also got a library. Daily papers in English and Hindi are provided in these libraries, besides other books. Documentary films are also shown twice a month and such shows should be more frequent in case the Government supplies the films. A radio, a loud-speaker, and a gramophone are also provided in the club room of the Kauriari quarry. There is a similar arrangement at the club of the Murli quarry. Indoor and outdoor games are also provided. The finances of the company do not admit of opening a night school. There is a lower primary school at Kauriari where free education to workers' children is provided. There is an Upper Primary School at Murli quarry where also free education is provided. Books are also supplied free. Education is primarily the responsibility of the State. Similar is the case with the hospital facilities. At Kauriari there is a dispensary with a qualified physician, one compounder and a dresser while at Murli there is a dispensary with one physician, one compounder, one dresser, 3 dressing coolies and a midwife nurse. Provision should be made for indoor patients also at Murli and I think the hospital should have at least six beds. They should also provide a maternity home under the supervision of a qualified doctor.

45. In case of injuries by accident it is the responsibility of the company to bear all expenses which may have to be incurred, such as travelling expenses, doctor's fees, cost of medicine, diet etc. In case of sickness, medicine should be supplied free. Free medical aid should be provided for the dependants of the staff and the quarry workers. Rules 64 to 70 of the Mines Rules 1955 make a proper provision for the canteens and no directions are necessary in this respect. No further direction is necessary in respect of other welfare demands.

46. Issue No. 29.—Thirtyeight workmen are covered by this issue and most of them have claimed a higher grade and demanded payment of difference of wages

according to grade since 1949. No bad faith or victimisation on the part of the management is alleged or proved. The grievance of these workmen is that they have not been promoted and given higher grades though they deserved higher grades. The law on the subject has been laid down in the case of U.P. Electric Supply Co. Workers' Union and U.P. Electric Supply Co. Ltd. Lucknow, reported as 1951-I-L.L.J.456. It was remarked as follows:—

"The substance of this claim, therefore, is that the company should have promoted him from grade II to Grade I. We do not think that that claim is admissible. Whether a particular employee should be promoted from one grade to a higher grade depends not only on the length of service alone but also on his efficiency and other qualifications and our view is that in the matter of promotion it is the management, and management in such a matter."

In the case of U.P. Electric Supply Co. Ltd. Allahabad, *Versus* Bijli Mazdoor Sangh, Allahabad, reported as case No. 82, L.A.C. 1952 page 346, it was observed as follows:—

"In the matter of promotions the personal knowledge of General Manager or of the higher authority empowered to promote, as in the case the Resident Engineer, has a great value and it would be laying down a dangerous principle if an outside body were to substitute its own judgment in matters of promotion on such evidence as has been adduced in this case."

It has been further remarked on page 349 as follows:—

"*Prima facie* it (the company) has the discretion to select a particular man for promotion to whom it considers to be fit; for the matter of promotion it is pre-eminently a management function, and it would require a very strong case for the interference with the decision of the management in such a matter."

The American law on the subject has been discussed by Shri M. C. Banerji in the case of Jardine Henderson & Co. Ltd. and their workmen reported as 1954-I-L.L.J. 701, which is also to the same effect. In the present cases, as already pointed out no bad faith on the part of the management is alleged or proved. So there can be no interference in any of these cases. It is therefore not necessary to deal with these cases but I however record my findings thereon.

47. Shri H. K. Narain No. (1).—He is examined as A.W.6. He is an Assistant Quarry Manager and it is disputed that he is a workman. His duties are not clerical or manual but mainly supervisory. He checks the attendance taken by subordinates and according to him he spends an hour or two in checking the attendance. He does not prepare any labour report but checks the labour reports prepared by his clerks. He takes about an hour or two in issuing explosives and the rest of his time is spent in checking that the quarries are being worked properly. Under the circumstances, I do not think he is a workman as defined in Section 2(s) of the Industrial Disputes Act 1947. Shri Dikshit relied upon 1954-I-L.L.J.21 wherein the Depot Superintendents of Burma-Shell Oil Storage and Distributing Co. of India Limited were regarded as workmen but the present view is different. In the case of the same company, the Labour Appellate Tribunal of India (1955-II-L.L.J.153) has held that Depot Superintendents, and Assistant Depot Superintendents are not workmen. The point has further been elucidated by the Labour Appellate Tribunal of India at Lucknow in the case of Upper Jamuna Valley Electric Supply Co. Ltd. *Versus* their workmen reported as 1955-II-L.L.J. 50 where it has been observed as follows:—

"As regards his duties it appears that when he was in Shahdra which was in Meerut circle of this company his duties were, in his own words, maintenance of distribution system, i.e. mains and services, accounts maintenance of office, stores, and administration, office correspondence, supervision of new constructions and preparing estimates."

He added that he had no power to appoint or dismiss any one. The company laid down the policy and he had to execute it. He used to check the cash revenue report of the linesmen working under him. He used to keep the record of the work of the linesmen and the coolies. Whatever instructions he received from the Meerut head office he used to carry them out and communicated the same to the subordinates. He used to make a physical checking of the items of the stores. At times he used to seal the cut-out and the meter covers of the consumers. He used to issue instructions for the work of the erection of service lines and he used to inspect the supervision. He used to draft the letters himself. He claimed his work was of the

nature of "skilled-cum-clerical". He admits that he used to chargesheet his subordinates and to see that none took an unauthorised connection.

We have considered the nature of the duties performed by Shri Chatterji and we have no hesitation in arriving at the conclusion that his work was neither manual nor clerical. In the main his work was of a supervisory character. The employees stationed at Shahdra were working under him and it was his responsibility to see that they discharged their duties properly. It may be that at times he had to do some writing work, but in the main it was not a work of clerical nature which he was doing."

Under the circumstances, I am of opinion that Shri H. K. Narain is not a workman.

48. Shri Dikshit then referred to Shri L. N. Gour No. 8. He is an assistant quarry manager and the same remarks apply *mutatis mutandis* to him. He has claimed higher grade which is beyond the jurisdiction of this Tribunal.

49. After this, Shri Dikshit referred to Shri Laljee Sahai No. 2 who has been examined as A.W.9. He is a quarry assistant and therefore is not a workman. He also wants a higher grade. No bad faith has been alleged on the part of the management. Similarly is the case of Sri S. K. Maheshwari No. 17 who is also a quarry Assistant. He has not put himself in the witness box.

50. Then Shri Dikshit referred to Shri Rajan Singh No. 3 who is designated as Labour Inspector but his work is more or less akin to that of a quarry assistant. He is also not a workman. He has also asked for a higher grade. The management has not been charged with any bad faith.

51. Then Shri Dikshit referred to Shri Bal Keshwar Prasad No. 12 who has been examined as A.W.8. He is a workman but he has got no case on merits. He says he was a Head Clerk serving under Messrs. Rhotas Quarries Limited. He was transferred to Dalmia Jain & Co. Ltd. but was not given the post of a Head clerk but of an establishment clerk, as one head clerk was already working in this concern. He however was transferred on the same salary. When the management had already got a Head clerk they could not absorb him as a Head clerk.

52. After this, Shri Dikshit referred to Bajrang Sahay No. 14. He has been examined as A.W.14. His case is that one S. K. Maheshwari has been promoted but he has not been promoted. The question of promotion rests with the management and no interference can be made in this respect. He has failed to establish that S. K. Maheshwari was promoted because he was related to F. C. Maheshwari the manager. It may be pointed out that S. K. Maheshwari was not working under F. C. Maheshwari when he was promoted.

53. The next case referred to by Shri Dikshit is of Shri Chhabila Singh No. 18 whose grievance is that occasionally he is required to drive a jeep though he is a fitter. He does not hold the post of a driver. He can claim overtime if he is to perform duties of a driver besides those of a fitter.

54. Then Shri Dikshit referred to Shri Moti Singh No. 21. He says he is a Havildar but gets the salary of a Chowkidar. In fact he is a chowkidar whose duty is to check the work of chowkidars. He is paid Rs. 5 extra for acting as a supervisor chowkidar.

55. Then Shri Dikshit referred to Shri Narsingh Pranjee No. 23 who has been examined as A.W.10. His grievance is that one Mr. Sukla has been given grade IV but he has not been promoted, though he has to put in three times more work. If he has to work overtime, he can claim overtime allowance, otherwise promotion rests with the management. No allegation has been made regarding the bad faith on the part of the management.

56. The next person referred to by Shri Dikshit is Shri J. N. Sahay No. 30. It is stated that the Chief Engineer recommended him but still he has not been given higher grade. The promotion rests with the management. No allegation of victimisation has been made.

57. Then Shri Dikshit referred to Shri Ganowri Ram No. 32. He is a light man but does some repairing work as well, so far as patromax lamps are concerned. It has not been shown that it is not a part of his duty. He cannot be given higher grade unless the management thinks it fit to do so.

58. Then Shri Dikshit referred to Shri Atal Singh No. 34 who has been examined as A.W.16. He says that he is a darwan and that he was given a reward of Rs. 5

in the year 1945 but has not been given any lift. He says that in consideration of his efficiency and seniority he should be given a lift. He however admits that he was suspended once.

59. The last person referred to by Shri Dikshit is Shri Bos Lall No. 35. He has been examined as A.W.12. He is a turner and has produced a certificate Exhibit 80. He says that he is also working as a fitter and that he should be given a higher grade, which is not within the jurisdiction of this Tribunal. No bad faith on the part of the management is alleged by him.

60. Shri Dikshit did not refer to the rest of the workers named in the issue No. 29 during the course of his arguments. Anyhow there does not seem to be any substance in their claim as well.

No other matter is pressed before me and I pass my award accordingly.

(Sd.) P. S. BINDRA, *Chairman,*

Central Government's Industrial Tribunal Dhanbad.

The 23rd September 1955.

[No. LR.2(94)/54.]

New Delhi, the 30th September 1955

S.R.O. 2229.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Delhi, in the matter of an application under section 33A of the said Act from Shri Narain, a workman of the Punjab National Bank, Limited.

BEFORE SHRI RAM KANWAR, CENTRAL GOVERNMENT TRIBUNAL, DELHI

REFERENCE No. LR-100(98) DATED 2ND SEPTEMBER, 1953

In the matter of an Industrial Dispute

BETWEEN

The employers in relation to the Punjab National Bank and its workmen.

Application under section 33A of the Industrial Disputes Act.

Shri Narain *Versus* General Secretary, Punjab National Bank Ltd., and 2 others.

APPEARANCES: Shri H. L. Puri for the petitioner and Shri M. K. Jain for the bank.

AWARD

Shri Narain petitioner was employed as a cashier in Punjab National Bank pay-office Gundia as a nominee of the Cashier Contractor Shri Chhote Lal Chhagan Lal Patel, since 1951. On 21st August 1954 the Cashier Contractor served a charge-sheet on him calling upon him to explain certain irregularities. The petitioner submitted his explanation on 24th August 1954 and as it was answered unsatisfactory by the Cashier Contractor, he withdrew his nomination of the petitioner with the result that he was relieved of his duties.

2. At the time of entering the service of the Punjab National Bank the petitioner had falsely stated that he was a Matriculate of Nagpur University and when the bank insisted on the production of his certificate to that effect he submitted his resignation to the bank on 19th February 1953, but no order was made by the bank on the same.

3. The present application was made by the petitioner with a prayer for his re-instatement or for any such order as the Tribunal may deem fit. His allegations are that his dismissal was made without the permission of this Tribunal and was illegal and improper.

4. The application is opposed by the bank.

5. At the time of arguments the parties at the suggestion of the Tribunal made a compromise to the effect that the petitioner withdrew his application on the bank's giving an undertaking that it would pay him 5½ months' full emoluments at the rate to which he was entitled on 1st August 1954 in full satisfaction

of his claim. An award is therefore, made in the terms of the compromise. Required number of its copies shall be submitted to the Labour Ministry of the Central Government for necessary action in the matter.

DELHI;
The 31st August, 1955.

(Sd.) RAM KANWAR,
Industrial Tribunal, Delhi.

[No. LR-100(98)I.]

S.R.O. 2230.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Delhi, in the matter of an application under section 33A of the said Act from Shri Amar Nath Kalra, a workman of the Punjab National Bank, Limited.

**BEFORE SHRI RAM KANWAR, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL, DELHI**

REFERENCE No. LR-100(98) DATED 2ND SEPTEMBER 1953

In the matter of an Industrial Dispute

BETWEEN

The Employers in relation to the Punjab National Bank Ltd., and its workmen.
Application under Section 33A of the Industrial Disputes Act.

Shri Amar Nath Kalra Versus Punjab National Bank Ltd.

APPEARANCE: Petitioner with Shri L. R. Kashyap, Assistant General Secretary
of the Punjab National Bank Employees' Union (Punjab).

Shri M. K. Jain for the bank.

AWARD

Sardar Gurcharan Singh of Dehra Dun, M.W. 2 has been working as Treasurer of the various branches of the Punjab National Bank since very long and Shri Amar Nath Kalra petitioner worked with him as one of his nominees as a cashier for the last 17 years. After working at several places the petitioner was ultimately transferred to Nagpur Itwari office on 21st January 1953. His son Krishan Lal Kalra worked in Jodhpur as hundi presenter and due to his fault there was a shortage of Rs. 1,170 in the treasury in June 1952 and the Treasurer deducted that amount from the security of Rs. 1,500 deposited by the petitioner because Krishan Lal had been appointed at his instance and by Ex. MW 2/5, dated 29th September 1947 the petitioner had undertaken to reimburse the Treasurer for any loss caused by Krishan Lal. As after deduction of the amount of the loss, the security deposit of the petitioner had come down to Rs. 330 plus some interest the petitioner by his letter Ex. M.W. 2/7 dated 29th June 1952 offered to make it good upto Rs. 500 only pleading his inability to make any further deposit due to his poor circumstances and also promised to pay three hundred rupees as security on behalf of Krishan Lal within the following 2 or 3 months.

(2) On 21st November 1953 Sardar Gurcharan Singh inspected the treasury of Nagpur Itwari branch in the presence of the petitioner who was then acting as head cashier in place of the permanent incumbent Shri Chanan Ram Jain and made the following notes addressed to the petitioner and calling upon him to reply to the same:—

- (a) Why did you show in cash in hand a counterfeit one rupee silver coin which had been left by the Imperial Bank of India, Branch office Nagpur after an entry in its book;
- (b) Why did you not exchange it with a good coin from your own pocket and in case you yourself had no such coin, why did not borrow one good coin from some friend; for that purpose;
- (c) In ten rupee notes, why 2 pieces of one such note were found;
- (d) When revenue stamp is sold, why a voucher is not prepared relating to the sale. There was shortage of one anna in the stamp account;
- (e) There was a counterfeit four anna piece in the cash;
- (f) Why no details were given in vouchers for cash.

At the end it was added that in case there was no satisfactory reply on these points, action would have to be taken against him.

(3) That note or a copy of it was not handed over to the petitioner at Nagpur, but the Treasurer sent a copy of it to the Accountant-in-charge of Nagpur Branch to be served on the petitioner as a charge sheet with covering letter Ex. M/1, dated 8th December 1953.

(4) The Accountant-in-charge received that letter with the charge sheet on 10th December 1953 and made over the latter to the petitioner the same day for his reply.

(5) It is common ground that the petitioner did not give any reply to the charge sheet to the Accountant-in-charge, but his allegation is that he sent his reply to the Treasurer at Dehra Dun by post, the receipt of which is denied by that gentleman from the witness box. I have no reason to disbelieve the treasurer on that point. Specially when the petitioner has not produced before me any copy of it or refuted the statement of the treasurer on that point from the witness box. He has also not produced any postal receipt if the reply was sent by registered post.

(6) On receipt of the charge-sheet, the petitioner got very much annoyed with the result that he sent a very nasty letter Ex. M.W. 2/8, dated 24th December 1953 to the Treasurer accusing him (a) of misappropriation of Rs. 1,170 out of the security of Rs. 1,500 deposited by him, stating that Krishan Lal was only a hundi presenter and was consequently not liable for the loss incurred by him when he was made to act as cashier; and (b) of bringing pressure upon him to resign from the membership of the Employees' Union of which he was a legal and bonafide member. Notes at the bottom of that letter indicate that copies of it were sent to the Asstt. Secretary Staff Department of the Bank; to the Regional Labour Commissioner and to the Regional Secretary of the Union with a request for immediate intervention in the matter.

(7) The Treasurer rightly felt aggrieved on receipt of that letter with the result that he served a notice on the petitioner through his lawyer on 31st December 1953 denying the allegations of the petitioner and also threatening of taking legal proceedings against him for the offence punishable under section 500 I.P.C. He also sent a telegram the same day to the Accountant-in-charge cancelling his letter of nomination in favour of the petitioner and directing the Accountant-in-charge not to allow the petitioner to touch cash.

(8) The above information could not be conveyed to the petitioner on its receipt because he was on leave from 2nd January 1954 upto 6th February 1954. He subsequently applied for extension of his leave upto 13th February. The Accountant-in-charge therefore, informed him by telegram at his Jodhpur address that his nomination had been withdrawn by the Treasurer—another application was sent by him on 15th February 1954 for extension of leave and the Accountant-in-charge sent him a letter the same day stating that as the Treasurer had cancelled his nomination, he was no longer attached to that (Nagpur) office and consequently that office had nothing to do with his leave application and that he should seek further instructions from the Treasurer. The petitioner then attended office on 16th February but was not allowed to work there.

(9) On 19th February 1954 the petitioner sent a letter from Nagpur to the Treasurer praying for a job stating that his family due to his unemployment was starving, that he was sorry for his past conduct and that he would discharge his duties in future very faithfully. Ex. M/A is a copy of that letter, sent to the Asstt. Secretary Staff at the Head Office of the bank. A copy of it was also sent to the Secretary, the Punjab Bank Employees' Union Nagpur.

(10) S. Iqbal Singh was also working as a cashier in Nagpur office along with the petitioner. It appears that there was also a similar dispute about him. On 20th February 1954 a compromise was arrived at between the bank and the Punjab National Bank Employees' Union Nagpur in the matter of the petitioner and S. Iqbal Singh to the following effect:—

- (a) The Union gave up the case of the petitioner;
- (b) *Status quo* in the case of S. Iqbal Singh was maintained with consent of the Treasurer.
- (c) The episode was to be treated as closed and there was to be no repetition of such episode.

The compromise Ex. M/5 was signed by Shri Ram Labhya, Regional Secretary Punjab National Bank Ltd, Employees Union Nagpur, the Manager Punjab

National Bank Ltd., Kingsway, Nagpur who was officer in charge of Itwari office, and Assistant Secretary Madhya Bharat Bank Employees Association Nagpur.

(11) On 26th April 1954 the petitioner sent letter Ex. W/4 to the District Manager 'C' Circle Calcutta, requesting the latter to let him know where he should report for duty because the Accountant-in-charge of Nagpur Itwari office had informed him that he was no longer attached to his office and also prayed for getting his salary paid for the months of February and March 1954. He subsequently sent representation Ex. W/6 to the General Secretary of the bank on 22nd May 1954 with a request to reinstate him, after having seen that gentleman personally on 20th May 1954. He then successfully applied for the full payment of his provident fund money in September 1954.

(12) After that he kept quiet till the decision of the Supreme Court in Shiv Nandar Sharma Vs. Punjab National Bank Ltd. in March 1955 to the effect that cashiers are employees of the bank and then submitted the present application to this Tribunal by registered post on 21st May 1955 with a prayer for his reinstatement on the ground that the bank did not obtain the written permission of this Tribunal for his dismissal which was essential under section 33 of the Industrial Disputes Act and that the dismissal was made without any sufficient reasons. He authorised the Punjab National Bank Employees' Union (Punjab) to represent him in these proceedings.

(13) The bank opposes the application on the grounds that the above mentioned compromise of 20th February 1954 is binding on the petitioner and that there were sufficient reasons for his dismissal. Regarding the 2nd plea I have no hesitation in holding that it carries no weight. First of all the bank did not obtain any written permission of the Tribunal for the dismissal of the petitioner. Again even if want of permission does not carry much weight the circumstances of the case were not at all sufficient for the dismissal of the petitioner. The charges brought against him were not at all of serious nature—specially when the Treasurer as late as 25th May 1953 had given the petitioner a certificate of 20 years honest and faithful service. But the first plea is very substantial, specially when the petitioner has not come forward with any dishonest motive on behalf of the Union in making the above mentioned compromise. The petitioner according to his own admission was a legal and *bona fide* member of the Union and the fact that he conveyed the information of all the steps taken by him, in this matter, to the Union clearly indicate that he had perfect faith in its actions. In *K. Jagdeesar Vs. Semson & Company Ltd.* it was held by the Special Industrial Tribunal Madras (L.L.J. August 1955 p. 129) that a workman concerned cannot repudiate the action agreed upon by the Union. Again in *Miwar Textile Mills Ltd. Bhilwara Vs. Mill Mazdur Sangh Bhilwara* (L.L.J. Vol. I, 1954 p. 47) there was an award in favour of the concerned workman much earlier than the agreement—some terms of which took away materially the benefit which the employee got under the award. The withdrawal of that benefit was in pursuance of a comprehensive settlement of many disputes concerning many employees though with respect to some of them some concessions had been made and some advantages secured had to be surrendered. It was held by the Tribunal that as the concerned workman was a member of the Union who was representing Union in these proceedings the agreement was binding on him in the absence of any proof that the agreement was *mala fide* or was the result of any kind of undue influence. Such being the case as there was implementation of the agreement in the re-instatement of S. Iqbal Singh, it is obviously binding on the petitioner in the absence of even a plea of *mala fide* or undue influence. Such being the case I make an award rejecting the application of the petitioner. Necessary copies of it shall be sent to the Labour Ministry of the Central Government for necessary action in the matter.

DELHI;

Dated the 16th September 1955.

(Sd.) RAM KANWAR,
Industrial Tribunal, Delhi.

[No. LR-100(98)II.]

New Delhi, the 4th October 1955

S.R.O. 2231.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial disputes between the Co-operative Assurance Company, Limited, Amritsar, and their workmen.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD

REFERENCES 5 AND 7 OF 1955

PRESENT:

Shri P. S. Bindra, B.A., LL.B.,—*Chairman.*

PARTIES:

The employers in relation to the Co-operative Assurance Co. Ltd., Amritsar.

Vs.

Their workmen.

APPEARANCES

For the management:

Memo for the management.

For the workmen:

Shri A. K. Suri, President, The Co-operative Assurance Co. Employees' Union, and

Shri R. P. Julka, Secretary, The Co-operative Assurance Co. Employees' Union.

AWARD

The Government of India, in the Ministry of Labour by Order No. LR.90(176) dated 21/22nd March 1955 and Order No. LR.90(29)/54, dated the 31st March 1955 has made references under section 10 of the Industrial Disputes Act 1947 (numbered as 5 and 7 of 1955), to this Tribunal for deciding the industrial disputes between the employers in relation to Co-operative Assurance Co. Ltd., Amritsar and their workmen in respect of bonus for the years 1952 and 1953. Both of these references are hereby disposed of by one order.

2. Formal notices were issued to the parties who filed the respective written statements, and the cases were fixed for evidence at Simla for the 13th September 1955. Due information was given to the parties by registered notices, which were served on the parties on 30th August 1955. On the date of hearing (13th September 1955) Shri A. K. Suri and Shri R. P. Julka appeared for the workmen but nobody appeared for the company. No intimation was received from the company explaining the absence. So in the ordinary course I could proceed *ex parte* but I ordered that an express telegram be sent to the management requiring them to appear on 15th September failing which *ex parte* proceedings would be taken against them. In reply to this telegram, a telegram was received from the company on that very day (13th September 1955) referring to the telegram issued under my orders, stating that Lala Jagraj who had been entrusted with these cases could not stand the 'hill journey sickness' and that the cases be taken up on the plains. In this connection, it will be significant to note that on the receipt of the notice on 30th August, the management did not raise any objection regarding the hearing of the cases at Simla and also did not make any representation before the date of hearing or on the date of hearing viz. 13th September 1955. This plea was taken up on receipt of a telegram for the Tribunal which was sent as a matter of grace and the company had no legal right to obtain an adjournment on 13th September. Anyhow another telegram was sent on 14th September requiring the management to depute another person to appear on 15th September. Nobody appeared on the 15th also and no intimation was received from the company. To give a last chance to the company, another express telegram was sent to the company on the 15th asking them to appear on 16th September. Nobody appeared on 16th September also, but a telegram was received stating that none else was fully conversant with the facts of the cases. The plea that nobody else could appear on behalf of the company is not tenable. Moreover, Shri Jagraj was not ill but expressed his inability to attend on account of supposed sickness which may be caused by hill journey. He could avoid the motor journey by travelling by Rail Motor which travels at the speed of 15 miles an hour and does not cause any giddiness whatsoever. Both 1st and 2nd class passengers can travel by Rail Motor. Simla has been the seat of the Punjab High Court for the last so many years. Moreover if there was any objection it ought to have been taken before the date of hearing and there was sufficient time for that purpose. For the reasons given in my order dated 16th September, I proceeded *ex parte* against the company.

3. So far as the grant of bonus is concerned, the company has raised certain preliminary objections in their written statements. It is urged that in view of Section 31A(vii) of the Insurance Act, this Tribunal is not competent to adjudicate upon the demand for bonus, as this power solely rests with the Central Government, who is to opine as to what quantum of bonus is considered reasonable. Clause (vii) referred to above runs as follows:—

“the payment of bonus in any year on a uniform basis to all salaried employees or any class of them by way of additional remuneration, such bonus, in the case of any employee, not exceeding in amount the equivalent of his salary for a period which, in the opinion of the Central Government, is reasonable having regard to the circumstances of the case.”

As several references were made by several companies to the Central Government regarding the quantum of bonus, the Controller of Insurance issued circular letter No. 53-IC(1)/51, dated 20th November 1952 (marked Exhibit A-17) in which it was laid down that it was the responsibility of each insurer to decide the rate of bonus he can afford to pay to his staff, keeping in view the provisions of Sections 40B and 40C of the Insurance Act. It was further laid down that no insurer whose life insurance fund is in deficit and who has not made any profits in the preceding year in general insurance business as a whole should pay any bonus to the staff. Subject to the above conditions, it was opined as follows:—

“(i) The Central Government will not consider any bonus upto 2 months salary as unreasonable.

(ii) If any higher bonus has been paid by such insurer in the previous year, then he may pay bonus at the same rate for the current year, if he thinks fit, without consulting the Central Government.”

4. So from the above it will be evident that in the opinion of the Central Government, bonus upto the months' salary is reasonable. Thus the Government has already expressed its opinion so far as the payment of bonus to the extent of two months' salary is concerned. The Government not only expressed its opinion but also authorised the insurer to pay bonus according to the instructions laid down in the above letter. Thus the insurance companies are at full liberty to grant bonus upto the extent of two months' salary under certain conditions, and there is no bar to grant of such bonus under the Insurance Act 1938. The Supreme Court in the case of *Muir Mills Limited Versus Mill Mazdoor Union*, reported as 1955-I.L.L.J.1 has laid down as follows:—

“The term “bonus” is applied to a cash payment made in addition to wages. It generally represents the cash incentive given conditionally on certain standards of attendance and efficiency being attained.”

There are however two conditions which have to be satisfied before a demand for bonus can be justified and they are:—

- (1) when wages fall short of the living standard; and
- (2) the industry makes huge profits part of which are due to the contribution which the workmen make in increasing production.

The demand for bonus becomes an industrial claim when either or both these conditions are satisfied

The principles for the grant of bonus were discussed and a formula was evolved by the Full Bench of the Labour Appellate Tribunal in *Millowners Association, Bombay V. Rashtriya Mill Mazdoor Sangh, Bombay* (1950-I.L.L.J. 1247):

“As both labour and capital contribute to the earnings of the industrial concern it is fair that labour should derive some benefit, if there is a surplus after meeting prior or necessary charges.” and the following were prescribed as the first charges on gross profits, viz:—

- (1) provision for depreciation,
- (2) reserves for rehabilitation,
- (3) a return at 6 per cent. on the paid-up capital,
- (4) a return on the working capital at a lesser rate than the return on paid-up capital.

The surplus that remained after meeting the aforesaid deductions would be available for distribution as bonus.

The demand for bonus under conditions laid down above becomes an industrial claim leading to an industrial dispute and therefore this Tribunal has got jurisdiction to decide this matter. So far as conditions laid down by Sections 40B and 40C read with Rule 17D are concerned which put a limitation to the expenses of management, the union has worked out the expenses (Exhibits A-5 for the year 1952 and A-11 for the year 1953) which show that even if two months' salary is paid to the staff as bonus, it will not increase the limit of expenses prescribed by the Rules. So if the company has made profits and after allowing the prior charges indicated by the Supreme Court, a surplus is left, bonus can be awarded.

5. So far as the year 1952 is concerned the management has stated in their written statement that they have been assessed to an income tax of Rs. 1,64,698-10-0. The union has worked out the income on which Rs. 1,64,698-10-0 as income-tax could be levied and this amount comes to Rs. 4,05,500. Out of this Rs. 1,64,700 were paid as income-tax, so the gross profits of the company for the year 1952 come to Rs. 2,40,800. Out of this following deductions have to be made.

- (1) 6 per cent. return on paid up capital i.e. on Rs. 10,00,000—60,000.
- (2) 3 per cent. return on General Reserve i.e. on Rs. 30,374 (page 18 of balance)—910.
- (3) Amount transferred to General Reserve (page 2 of Balance Sheet).—22,626.

Total:	83,536
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After deducting Rs. 83,536 from Rs. 2,40,800 the balance comes to Rs. 1,57,264. So the available surplus which is left for distribution comes to Rs. 1,57,264. The monthly salary of the staff comes to about Rs. 3,500, so the company can very easily pay bonus to the extent of two months' salary to each member of the staff.

6. From the balance sheet also, a fair estimate can be made, of the profits of the company. The union has prepared the statement A-10 which shows the available surplus as worked out of the balance sheet and it comes to Rs. 1,53,324-13-0 which fairly compares with the available surplus worked out on the assessment of income-tax. There is a difference as the dividends stated in the balance sheet are nett, while the dividends are grossed for the purposes of income-tax. The management has stated in its written statement that Rs. 66,220 were transferred from General Reserve for dividend to shareholders, but the perusal of the balance sheet for the year 1951, page 14 (Exhibit A-1) shows, that the amount was transferred in the year 1951, and not 1952. In the year 1952 the amount was only appropriated vide page 17 of balance sheet of the year 1952 marked Exhibit A-2. Even if this amount is taken out of the available surplus, sufficient amount is left to justify the grant of bonus to the extent of two months' salary.

7. Similarly for the year 1953, the union has prepared the statement A-15 from the assessment of income-tax, which shows that the income of the company after paying the income-tax amounts to Rs. 2,43,929. The prior charges amount to Rs. 71,590 leaving a surplus amounting to Rs. 1,72,339. The statement A-16 is prepared on the basis of the balance sheet, which shows an available surplus of Rs. 1,35,706, the cause of discrepancy has already been explained. The salary of the staff for two months comes to Rs. 7,600, there is plenty of surplus to justify two months' salary as bonus. I may however point out that under the letter of Controller of Insurance marked A-17, only two months' salary is permissible as bonus and it does not include dearness allowance. So the members of the staff are entitled to two months' salary (excluding dearness allowance) as bonus for the year 1952 (Reference No. 5 of 1955). They would also be entitled to Rs. 200 as costs. I pass my award accordingly.

8. Similarly regarding the year 1953, the members of the staff are entitled to two months' salary (excluding dearness allowance) as bonus (Ref. No. 7 of 1955). They would also be entitled to Rs. 200 as costs. I pass my award accordingly.

The 19th September, 1955.

(Sd.) P. S. BINDRA, *Chairman,*
Central Government's Industrial Tribunal, Dhanbad

[No. LR(90) (29)/54.]

S.R.O. 2232.—In exercise of the powers conferred by section 7 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby constitutes an Industrial Tribunal with headquarters at Lucknow, consisting of a single member, namely Shri Ilias Ahmed, a retired District and Sessions Judge of Uttar Pradesh, for adjudication of industrial disputes that may be referred to it under section 10 of the said Act.

[No. LRII/60-1/18/55.]

ORDERS

New Delhi, the 28th September 1955

S.R.O. 2233.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the mica mines of Messrs Bejoy Mica Company, Bhilwara, and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 7 and clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby constitutes an Industrial Tribunal of which Shri Sardul Singh Mehta, R.J.S., Judge, Industrial Tribunal, Rajasthan, Jaipur, shall be the sole member and refers the said dispute for adjudication to the said Tribunal.

SCHEDULE

1. Bonus at the rate of four months' wages for the years 1951-52 and 1952-53.
2. Increased wages for cutters, underground workers and surface workers.
3. Grant of ten days' sick leave and seven days' casual leave in a year, both with pay.

[No. L.R.2(49)/55.]

New Delhi, the 30th September, 1955

S.R.O. 2234.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Co-operative Assurance Company, Limited, Amritsar, and their workmen in respect of bonus for the year 1954;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal at Dhanbad, constituted under section 7 of the said Act.

[No. LR.90(25)/55.]

New Delhi, the 5th October 1955

S.R.O. 2235.—Whereas the management in relation to the Hongkong and Shanghai Banking Corporation, Calcutta, and the Hongkong and Shanghai Banking Corporation (Calcutta Branch) Indian Staff Union, have jointly applied to the Central Government for reference of an industrial dispute to a Tribunal in respect of the matters set forth in the application reproduced (with enclosures) in the Schedule hereto annexed;

And whereas the Central Government is satisfied that the said Union represents a majority of workmen;

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7 of the said Act.

SCHEDULE

Application under sub-section (2) of section 10 of the Industrial Disputes Act, 1947 for the reference of industrial dispute to an Industrial Tribunal.

Whereas an industrial dispute exists between Shri Kartick Chandra Seal represented by the Hongkong & Shanghai Banking Corporation (Calcutta Branch) Indian Staff Union and the Hongkong & Shanghai Corporation, Calcutta office and it is expedient that the matters specified in the enclosed statement which are connected with or relevant to the dispute should be referred for adjudication by an Industrial Tribunal, an application is hereby made under sub-section 2 of section (10) of the Industrial Disputes Act, 1947, that the said dispute should be referred for an Industrial Tribunal.

The application is made by the undersigned who has been duly authorised to do so by virtue of a resolution (copy enclosed) adopted by a majority of the members present at a meeting of the Executive Committee of the said Union held on 12th August 1955.

A statement giving the particulars required under rule 3 of the Industrial Disputes (Central) Rules, 1947 is attached.

Dated the 23rd August 1955.

For and on behalf of
The Hongkong & Shanghai Banking
Corporation (Calcutta Branch)
Indian Staff Union.

For
The Hongkong and Shanghai
Banking Corporation.

Sd/- Secretary.

Sd/- Sub-Accountant.

To

The Secretary to the Government of India,
Ministry of Labour.

Statement required under rule 3 of the Industrial Disputes (Central) Rules, 1947, in accompany the form of application prescribed under sub-section 2 of Section 10 of the Industrial Disputes Act, 1947.

I. AS FURNISHED BY THE BANK

- (a) Parties to the dispute (1) The Hongkong & Shanghai Banking Corporation, Calcutta Office.
(2) Sri Kartick Chandra Seal represented by the Hongkong & Shanghai Banking Corporation (Calcutta Branch) Indian Staff Association.
- (b) Specific matters in dispute This dispute arose through the termination of the services of Sri Kartick Chandra Seal who had been employed by the Hongkong & Shanghai Banking Corporation as a temporary sircar for 2 years and 2 months. Notice of termination of his services was given to this employee on the 25th February 1955. He was originally employed as a temporary godown sircar on the 22nd December, 1952.
- (c) Total number of workmen employed in the undertaking affected 257
- (d) Estimate of the number of workmen affected or likely to be affected by the dispute 257
- (e) Efforts made by the parties themselves to adjust the dispute The matter was referred to a Conciliation Officer in February and conciliation proceedings continued upto the end of April 1955 without result.

II. AS FURNISHED BY THE UNION

- (a) The parties to the dispute Sri Kartick Chandra Seal represented by Hongkong & Shanghai Banking Corporation, (Calcutta Branch) Indian Staff Union.
vs.
 The Hongkong & Shanghai Banking Corporation, Calcutta.
- (b) The specific matters of dispute Illegal retrenchment of the employee to avoid the liability of confirming the staff even after the period of confirmation fallen due.
-) Total number of workmen employed in the undertaking affected 231
-) Estimate of the number of workmen affected or likely to be affected by the dispute 1
- Efforts made by the parties themselves to adjust the dispute Conciliation continued; conciliation and approach for peaceful settlement failed at the instigation of the management.

Resolution of a meeting of the Executive Committee of the Union held on 12-8-55:

It is resolved that the Committee approves the arrangement arrived at between the Union and Management regarding the case of Sri Kartick Chandra Seal. The Union is agreeable to face a tribunal to justify its case for due confirmation of Seal and malafide attempt of the Bank to retrench him with a view to by-pass issue.

This meeting notes that the Bank has agreed to maintain *Status Quo* pending decision of the tribunal.

The General Secretary is hereby authorised to sign the requisite form on behalf of the Union in pursuance of the directions of Section 10(2) of Industrial Disputes Act 1947.

[No.LP-100(21)/55]

P. S. EASWARAN, Under Secy.

New Delhi, the 4th October 1955

S.R.O. 2236.—In pursuance of the provisions of paragraph 20 of the Employees' Provident Funds Scheme, 1952, made under section 5 of the Employees' Provident Funds Act, 1952 (XIX of 1952), and in supersession of the notification of the Government of India in the Ministry of Labour No. PF-516(52), dated the 30th December 1952, the Central Government hereby appoints Shri Chandra Dhar Issar, Labour Commissioner, Rajasthan, to be the Regional Provident Fund Commissioner for the whole of the State of Rajasthan to work under the general control and superintendence of the Central Provident Fund Commissioner.

[No. PF-31(138)/55-II.]

S.R.O. 2237.—In exercise of the powers conferred by sub-section (1) of section 3 of the Employees' Provident Funds Act, 1952 (XIX of 1952), and in supersession of the notification of the Government of India in the Ministry of Labour, No. PF-516(52), dated the 24th December 1952, the Central Government hereby appoints Shri Chandra Dhar Issar, Labour Commissioner, Rajasthan, to be an Inspector for the whole of the State of Rajasthan for the purposes of the said Act and of any Scheme made thereunder, in relation to factories, engaged in a controlled industry or in an industry connected with a mine or an oilfield.

[No. PF-31(138)/55(I).]

P. N. SHARMA, Under Secy.

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 4th October 1955

S.R.O. 2238.—In exercise of the powers conferred by sub-section (2) of section 5 of the Cinematograph Act, 1952 (XXXVII of 1952), the Central Government hereby directs that the film entitled "Cell 2455-death Row" and its trailer produced by Columbia Pictures Corporation, U.S.A shall be deemed to be uncertified films in the whole of India.

[No. 8/19/55-FC.]

ORDER

New Delhi-2, the 6th October, 1955

S.R.O. 2239.—In pursuance of clause 2 of the directions issued under the provisions of each of the enactments specified in the First Schedule to the Order of the Government of India in the Ministry of Information and Broadcasting No. S.R.O. 945, dated the 28th April, 1955 the Central Government with previous approval of the Film Advisory Board, Bombay hereby certifies the film specified in column 2 of the schedule hereto annexed, in all its language versions, to be of the description specified against it in the corresponding entry of column 5 of the said schedule.

SCHEDULE

S. No.	Title of the Film	Name of the Producer	Source of supply	Whether a scientific film or a film intended for educational purposes or a film dealing with news and current events or a documentary film.
1	2	3	4	5
1.	Indian News Review No 364.	Govt. of India, Films Division, Bombay	Govt. of India, Films Division, Bombay	Film dealing with news and current events

[No. 1/16/55-F:App/52.]

D. KRISHNA AYYAR, Under Secy.